

. To: ISMTP@B11WDC-OV08B@Servers["Irwin, Robert (Bob)"
<roil@cdc.gov>], Irene Bueno@ASL
From: "Irwin, Robert (Bob)" <roil@cdc.gov>
Cc: ISMTP@B11WDC-OV08B@Servers["Hunter, Ed L." <elh1@cdc.gov>]
Bcc:
Subject: RE: Birth Certificates
Attachment: Headers.822
Date: 5/5/98 11:55 AM

Irene: Thanks. A lesson to us all: If you don't go to the meeting, you might get the job. It will be interesting to see what INS says when they are told they'll be regulating. They may actually want it this way, of course. I'll call Brownback's office and let you and Ed know the outcome.

> -----Original Message-----

> From: ibueno@os.dhhs.gov [SMTP:ibueno@os.dhhs.gov]

> Sent: Friday, May 01, 1998 6:15 PM

> To: roil@CDC.GOV

> Cc: elh1@CDC.GOV

> Subject: Birth Certificates

>

>

> Bob -

>

> The meeting with the White House was interesting. INS did not show up
> but

> we had a good discussion with Leanne and Julie Fernandez of DPC.

>

> Ed made a very convincing argument why it is not appropriate for HHS
> to

> issue the reg but that we should be involved in the development of the
>

> regulation. As a result, Leanne and Julie plan to issue some type of
>

> letter/something (they need to discuss with OMB what the something is)
> that

> designates the INS and HHS as the lead agencies on the consultation
> issue

> and designate INS as the agency that will promulgate the regulation.
> Of

> course, they still need to discuss with INS but DPC is leaning
> strongly in

> this direction and just want a decision to be made so they get this
> off

> their plate.

>

> On the issue of the Brownback letter, we decided it was best not to
> send a

> letter at this since there is nothing to report. To close out your
> correspondence with Ex Sec, we decided that either you or would call

> Senator Brownback's staff to let them know that we understand that the

>
> White House will be making a decision soon and that they will be
> informed.
> We would then tell Ex Sec that this letter has been responded to by
> phone.
>
> Ed will also give a heads up to the person, the NPHSIS President, who
> lives
> in KS and we suspect is behind this Brownback letter.
>
> Please let me know if you have any questions or comments.
>



NATIONAL ASSOCIATION FOR PUBLIC HEALTH STATISTICS AND INFORMATION SYSTEMS

June 5, 1997

The President
The White House
Washington, D.C. 20500

Re: Illegal Immigration Reform and Immigrant Responsibility Act of 1996

Dear Mr. President:

The National Association for Public Health Statistics and Information Systems, on behalf of 54 vital records registration areas (50 states, NY City, Puerto Rico, Guam and Virgin Islands) wishes to express concern that an appropriate lead agency (or agencies) charged with implementation of the above legislation has not yet been designated.

Vital records organizations throughout the U.S. will be affected by this legislation, particularly by Section 656. The Act prohibits federal agencies from accepting birth certificates which do not meet certain federal standards and requires consultation with the states to develop certain fraud prevention standards for birth certificates.

The Act also requires that regulations be developed one year from September 30, 1996, but to the best of our knowledge a lead agency has not been named, no consultation with states has occurred, and the development of regulations is not in process. If regulations are to be promulgated by September 30, 1997, very little time remains for appropriate consultation with affected states.

As a former Governor, you realize that most if not all states will need to pass legislation permitting certain changes in procurement and other matters to be in conformance with this new law within three years after final regulations. Additional costs will also need to be budgeted to meet these mandates, and budget cycles in 54 registration areas must be taken into consideration.

Timely consultation with states in these matters is therefore imperative if the states are to be able to comply with this legislation. On behalf of the membership of our organization, we request that the lead agency (agencies) be named as soon as possible, and that consultation with all registration areas and the National Center for Health Statistics begin immediately. The National Association for Public Health Statistics and Information Systems is willing to assist the designated lead agency to implement the aspects of this legislation that affects the vital registration system.

If further information is required, I can be reached at (913) 296-1415.

Very Respectfully Yours,

A handwritten signature in dark ink, appearing to read "Lorne A. Phillips".

Lorne A. Phillips, Ph.D. (NAPHSIS President)
State Registrar and Director
Center for Health and Environmental Statistics
900 SW Jackson, Room 152
Topeka, Kansas 66612-2221
Phone: (913) 296-1415 Fax: (913) 296-8869

LAP/js

cc: Executive Committee
Bruce Reed
Franklin D. Raines

President
LORNE A. PHILLIPS, Ph.D.
Kansas

President Elect
RICHARD B. BAYS
Texas

Secretary
LINDA A. BORDONARO
Pennsylvania

Treasurer
ALFRED G. ZANGRI
Alaska

Member at Large
ROD A. PALMIERI
California

Member at Large
ALVIN T. ONAKA, Ph.D.
Hawaii

Past President
MICHAEL R. LAVOIE
Georgia

① Developing standard but not regulation
↳ HHS

② ~~Regulate~~ Promulgate Regulations - INS

INS

~~rights~~ rights - preserving state rights
costly - could be
domestic

Heavy handed - INS ~~problem~~ -

mtg - 5/1

① Consultation - Julie + Leanne - will draft example designation letter. list of other agency

② Selection - INS + HHS ~~will~~ INS Regulate.
Lead Agency

Why not promulgate?

- Public health mission - not law enforcement
- Limited scope - only emergency public health issues
- Pull from the back end - promulgates enforcement
- Conserve ~~process~~ process - technical consultant

Brownback letter - letter - Do by phone*

Leanne
State Vital Stats

To: INTERNET[elh1@CDC.GOV]
From: Irene Bueno@ASL
Cc: INTERNET[roil@CDC.GOV]
Bcc:
Subject: Birth Certificates
Attachment:
Date: 5/1/98 9:39 AM

I spoke with Leanne this morning and mentioned to her the option of appointing both HHS and DOJ as the designated agencies. I expressed to her own concern however of being designated the agency that promulgates the rule but I think this decision could be worked out later. The important thing is to begin the regulation drafting process. She seemed to agree.

LEt me know if you have any comments, questions, etc.

Thanks.

To: INTERNET[anevel@OSASPE.DHHS.GOV] ,
INTERNET[CRoddy@OSOPHS.DHHS.GOV] , INTERNET[elh1@CDC.GOV] ,
INTERNET[roil@CDC.GOV] , Sandra Aguilar@IOS.IGA, Andrew D.
Hyman@OGC.IO, Dennis Hayashi@OCR.DO, James Ivery@IOS.IGA, Kristin
Siebenaler@IOS.ES

From: Irene Bueno@ASL

Cc:

Bcc:

Subject:

Attachment:

Date: 1/15/98 1:48 PM

I floated our idea with SSA staff that SSA promulgate the birth certificates regs and the initial response was not favorable.

Based on the options we developed yesterday, my suggestion is that I contact DPC and recommend that they:

1) appoint several agencies (HHS, SSA, DOJ, State, Treasury, Transportation, to consult and develop the birth certificates standards.

2) hold off a decision on which agency should promulgate the regulations.

3) we continue discussion with agencies that will receive the birth certificates like SSA or an enforcement agency like DOJ.

3) Internally, we follow up on proposals that another OPDIV or STAFFDIV (other than CDC) consider publishing the regulations (other ideas have come up like maybe ACF would have an interest based on the child support enforcement angle).

Please let me know if you have any concerns proceeding in this manner.

Thanks.

d

- receiving - exposure - info - enforce - receive - exposure*
- ① - End user - don't care what it looks like but just info contained in it.
 - ① No exposure at documentation
 - ② ~~Work~~ ~~Do~~ Work cooperatively w/ states on public relations
 - ③ Not alt of exposure & promulgate reg.

CDC
meeting

① DOJ, State, SSA, HHS, DOT, Treasury
conferences. agency that is done

③ ASPE regulate

② DOJ, CDCSS-entire

Birth Certificate - 1/14

Group mtg (Shiff) State
sent service
FBI SS Trump

CDC - take the issue - info, consensus standards, good vital state

(2) Fed Govt agency that receives the doc, sub

recommend

more than 1 agency ^{or more agency} ~~has to~~ can be designated.

Army - how's ^{current practice} ~~is~~ different than regulation, we ^{are administratively} ~~have to~~ use \$

Bib

(1) CDC - cooperative relationship w/ states... undermine public health, doesn't fit,

(2) CDC issue regulation for biological materials, industrial respiratory and meet certain standards, quarantine

DOJ, State, SSA, HHS, DOT, Treasury

Only, state grants

State - CDC
safety, security, 122 - DOT
Treasury.

CDC willing to do the work.

Not difficult.

(3) ^{SSA} ~~SSA~~ impact all US citizens

(5) No enforcement authority. in law

ASPE?

Elevate the decision.

→ CDC ~~is~~ gives out put ok if involved in the process.

Julie

HHS or DOJ

Consult w/ others

from gate

OMB - Need a letter - President
Agency needs to write a letter.

220-58-6517

4.15.55

Edward L. Hunter

(b) **SENSE OF CONGRESS.**—It is the sense of the Congress that—
 (1) the provincial sales tax levied by the Canadian province of New Brunswick on Canadian citizens of that province who purchase goods in the United States—

(A) raises questions about a possible violation of the North American Free Trade Agreement in the discriminatory application of the tax to cross-border trade with the United States; and

(B) damages good relations between the United States and Canada; and

(2) the United States Trade Representative should move forward without further delay in seeking redress under the dispute resolution process in chapter 20 of the North American Free Trade Agreement for the violation.

SEC. 636. IMPROVEMENTS IN IDENTIFICATION-RELATED DOCUMENTS.

(a) **BIRTH CERTIFICATES.**—

(1) **STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.**—

(A) **IN GENERAL.**—

(i) **GENERAL RULE.**—Subject to clause (ii), a Federal agency may not accept for any official purpose a certificate of birth, unless the certificate—

(I) is a birth certificate (as defined in paragraph (3)); and

(II) conforms to the standards set forth in the regulation promulgated under subparagraph (B).

(ii) **APPLICABILITY.**—Clause (i) shall apply only to a certificate of birth issued after the day that is 3 years after the date of the promulgation of a final regulation under subparagraph (B). Clause (i) shall not be construed to prevent a Federal agency from accepting for official purposes any certificate of birth issued on or before such day.

(B) **REGULATION.**—

(i) **CONSULTATION WITH GOVERNMENT AGENCIES.**—
 The President shall select 1 or more Federal agencies to consult with State vital statistics offices, and with other appropriate Federal agencies designated by the President, for the purpose of developing appropriate standards for birth certificates that may be accepted for official purposes by Federal agencies; as provided in subparagraph (A).

(ii) **SELECTION OF LEAD AGENCY.**—Of the Federal agencies selected under clause (i), the President shall select 1 agency to promulgate, upon the conclusion of the consultation conducted under such clause, a regulation establishing standards of the type described in such clause.

(iii) **DEADLINE.**—The agency selected under clause (ii) shall promulgate a final regulation under such clause not later than the date that is 1 year after the date of the enactment of this Act.

(iv) **MINIMUM REQUIREMENTS.**—The standards established under this subparagraph—

(I) at a minimum, shall require certification of the birth certificate by the State or local custodian of record that issued the certificate, and shall require the use of safety paper, the seal of the issuing custodian of record, and other features designed to limit tampering, counterfeiting, and photocopying, or otherwise duplicating, the birth certificate for fraudulent purposes;

(II) may not require a single design to which birth certificates issued by all States must conform; and

(III) shall accommodate the differences between the States in the manner and form in which birth records are stored and birth certificates are produced from such records.

(2) GRANTS TO STATES.—

(A) ASSISTANCE IN MEETING FEDERAL STANDARDS.—

(i) IN GENERAL.—Beginning on the date a final regulation is promulgated under paragraph (1)(B), the Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in issuing birth certificates that conform to the standards set forth in the regulation.

(ii) ALLOCATION OF GRANTS.—The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to issue birth certificates that conform to the standards described in clause (i).

(B) ASSISTANCE IN MATCHING BIRTH AND DEATH RECORDS.—

(i) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in developing the capability to match birth and death records, within each State and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the preceding sentence, a State that receives a grant under this subparagraph shall focus first on individuals born after 1950.

(ii) ALLOCATION AND AMOUNT OF GRANTS.—The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to develop the capability described in clause (i).

(C) **DEMONSTRATION PROJECTS.**—The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics, shall make grants to States for a project in each of 5 States to demonstrate the feasibility of a system under which persons otherwise required to report the death of individuals to a State would be required to provide to the State's office of vital statistics sufficient information to establish the fact of death of every individual dying in the State within 24 hours of acquiring the information.

(3) **BIRTH CERTIFICATE.**—As used in this subsection, the term "birth certificate" means a certificate of birth—

(A) of—

(i) an individual born in the United States; or

(ii) an individual born abroad—

(I) who is a citizen or national of the United States at birth; and

(II) whose birth is registered in the United States; and

(B) that—

(i) is a copy, issued by a State or local authorized custodian of record, of an original certificate of birth issued by such custodian of record; or

(ii) was issued by a State or local authorized custodian of record and was produced from birth records maintained by such custodian of record.

(b) **STATE-ISSUED DRIVERS LICENSES AND COMPARABLE IDENTIFICATION DOCUMENTS.**—

(1) **STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.**—

(A) **IN GENERAL.**—A Federal agency may not accept for any identification-related purpose a driver's license, or other comparable identification document, issued by a State, unless the license or document satisfies the following requirements:

(i) **APPLICATION PROCESS.**—The application process for the license or document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators.

(ii) **SOCIAL SECURITY NUMBER.**—Except as provided in subparagraph (B), the license or document shall contain a social security account number that can be read visually or by electronic means.

(iii) **FORM.**—The license or document otherwise shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators. The form shall contain security features designed to limit tampering, counterfeiting, photocopying, or otherwise duplicating, the license or document for fraudulent purposes and to limit use of the license or document by impostors.

Your Copy

URGENT

To: Andrew D. Hyman@OGC.IO, Dennis Hayashi@OCR.DO, Genie
Chough@ASMB.BUDG, INTERNET[CRoddy@OSOPHS.DHHS.GOV],
INTERNET[dnielsen@OSASPE.DHHS.GOV],
INTERNET[lsanches@OSASPE.DHHS.GOV], James Ivery@IOS.IGA, Kristin
Siebenaler@IOS.ES, Sandra Aguilar@IOS.IGA, Sean Donohue@ASL

From: Irene Bueno@ASL

Cc: INTERNET[roil@CDC.GOV], MarkM@ASL

Bcc: Beatrice Butler@ASL

Subject: Birth Certificates Meeting - message #2

Attachment:

Date: 1/12/98 10:14 AM

For some reason, the earlier message I sent to everyone was erased. I will try again.

I am writing to invite you to a meeting to discuss section 656 of the Immigration Reform and Responsibility Act of 1996 tomorrow, Tuesday, 1/13/98 at 2 pm in 423G.

Among other things, section 656 requires the President to designate an agency to promulgate regulations on birth certificates.

White House DPC staff are leaning toward designating CDC as the agency and very anxious about designating the agency since the regulations were due out last year.

CDC has substantial expertise in this area and CDC would like to be involved in the development of the regulations. However, CDC is concerned about being designated the lead agency since they do not normally promulgate and enforce regulations.

I would like your input on options that we could present to the White House. I will send a copy of the section to everyone prior to the meeting. Please review and share with us your ideas.

If you have any questions about this section, please contact Bob Irwin, CDC 690-8598 or me.

Please let know if you will be attending the meeting.

Thanks.

border. Such study shall include a re-
jection between any incidents of harass-
tory imposition of the New Brunswick
oods purchased in the United States by
s, and with any other actions taken by
governments to deter cross-border com-

-In conducting the study under para-
ner of the United States Customs Serv-
representatives of the State of Maine,
businesses, and any other knowledge-
mmi oner considers to be important
study.

han 120 days after the date of the en-
nissioner of the United States Customs
Committees on the Judiciary of the
l of the Senate a report on the study
u ion (a). The report shall include
at the United States Government can
ient by Canadian customs agents that

ON DISCRIMINATORY APPLICATION OF VINCIAL SALES TAX.

finds as follows:

Canadian customs officers began collect-
unswick provincial sales tax on goods
states by New Brunswick residents, an
e economic harm to United States
imity to the border with New Bruns-

to cross-border trade compounds the
the Canadian Government's imposi-
all goods bought by Canadians in the

ew Brunswick provincial sales tax on
of New Brunswick is effected only
Canadian border, not along New
other Canadian provinces; the tax is
y Canadian authorities in a manner
Canadians shopping in the United

the United States Trade Represent-
ention to seek redress from the
the New Brunswick provincial
olution process in chapter 20 of
e Agreement (NAFTA), but the
still not made such a claim

l States Trade Representative of
k provincial sales tax claim with
oute mechanism under NAFTA
more than a year after such
the claim has still not been
Trade Representative.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—
(1) the provincial sales tax levied by the Canadian province
of New Brunswick on Canadian citizens of that province who
purchase goods in the United States—

(A) raises questions about a possible violation of the
North American Free Trade Agreement in the discrimina-
tory application of the tax to cross-border trade with the
United States; and

(B) damages good relations between the United States
and Canada; and

(2) the United States Trade Representative should move
forward without further delay in seeking redress under the dis-
pute resolution process in chapter 20 of the North American
Free Trade Agreement for the violation.

SEC. 656. IMPROVEMENTS IN IDENTIFICATION-RELATED DOCUMENTS.

(a) BIRTH CERTIFICATES.—

(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(A) IN GENERAL.—

(i) GENERAL RULE.—Subject to clause (ii), a Fed-
eral agency may not accept for any official purpose a
certificate of birth, unless the certificate—

(I) is a birth certificate (as defined in para-
graph (3)); and

(II) conforms to the standards set forth in the
regulation promulgated under subparagraph (B).

(ii) APPLICABILITY.—Clause (i) shall apply only to
a certificate of birth issued after the day that is 3 years
after the date of the promulgation of a final regulation
under subparagraph (B). Clause (i) shall not be con-
strued to prevent a Federal agency from accepting for
official purposes any certificate of birth issued on or be-
fore such day.

(B) REGULATION.—

(i) CONSULTATION WITH GOVERNMENT AGENCIES.—
~~The President shall select 1 or more Federal agencies
to consult with State vital statistics offices, and with
other appropriate Federal agencies designated by the
President, for the purpose of developing appropriate
standards for birth certificates that may be accepted
for official purposes by Federal agencies, as provided
in subparagraph (A).~~

(ii) SELECTION OF LEAD AGENCY.—Of the Federal
agencies selected under clause (i), the President shall
select 1 agency to promulgate, upon the conclusion of
the consultation conducted under such clause, a regu-
lation establishing standards of the type described in
such clause.

(iii) DEADLINE.—The agency selected under clause
(ii) shall promulgate a final regulation under such
clause not later than the date that is 1 year after the
date of the enactment of this Act.

(iv) MINIMUM REQUIREMENTS.—The standards es-
tablished under this subparagraph—

(I) at a minimum, shall require certification of the birth certificate by the State or local custodian of record that issued the certificate, and shall require the use of safety paper, the seal of the issuing custodian of record, and other features designed to limit tampering, counterfeiting, and photocopying, or otherwise duplicating, the birth certificate for fraudulent purposes;

(II) may not require a single design to which birth certificates issued by all States must conform; and

(III) shall accommodate the differences between the States in the manner and form in which birth records are stored and birth certificates are produced from such records.

(2) GRANTS TO STATES.—

(A) ASSISTANCE IN MEETING FEDERAL STANDARDS.—

(i) IN GENERAL.—Beginning on the date a final regulation is promulgated under paragraph (1)(B), the Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in issuing birth certificates that conform to the standards set forth in the regulation.

(ii) ALLOCATION OF GRANTS.—The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to issue birth certificates that conform to the standards described in clause (i).

(B) ASSISTANCE IN MATCHING BIRTH AND DEATH RECORDS.—

(i) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in developing the capability to match birth and death records, within each State and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the preceding sentence, a State that receives a grant under this subparagraph shall focus first on individuals born after 1950.

(ii) ALLOCATION AND AMOUNT OF GRANTS.—The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to develop the capability described in clause (i).

(C) DEMONSTRATION PROJECTS.—The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics, shall make grants to States for a project in each of 5 States to demonstrate the feasibility of a system under which persons otherwise required to report the death of individuals to a State would be required to provide to the State's office of vital statistics sufficient information to establish the fact of death of every individual dying in the State within 24 hours of acquiring the information.

(3) BIRTH CERTIFICATE.—As used in this subsection, the term "birth certificate" means a certificate of birth—

(A) of—

(i) an individual born in the United States; or

(ii) an individual born abroad—

(I) who is a citizen or national of the United States at birth; and

(II) whose birth is registered in the United States; and

(B) that—

(i) is a copy, issued by a State or local authorized custodian of record, of an original certificate of birth issued by such custodian of record; or

(ii) was issued by a State or local authorized custodian of record and was produced from birth records maintained by such custodian of record.

(b) STATE-ISSUED DRIVERS LICENSES AND COMPARABLE IDENTIFICATION DOCUMENTS.—

(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(A) IN GENERAL.—A Federal agency may not accept for any identification-related purpose a driver's license, or other comparable identification document, issued by a State, unless the license or document satisfies the following requirements:

(i) APPLICATION PROCESS.—The application process for the license or document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators.

(ii) SOCIAL SECURITY NUMBER.—Except as provided in subparagraph (B), the license or document shall contain a social security account number that can be read visually or by electronic means.

(iii) FORM.—The license or document otherwise shall be in a form consistent with requirements set forth in regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators. The form shall contain security features designed to limit tampering, counterfeiting, photocopying, or otherwise duplicating, the license or document for fraudulent purposes and to limit use of the license or document by impostors.

(B) **EXCEPTION.**—The requirement in subparagraph (A)(ii) shall not apply with respect to a driver's license or other comparable identification document issued by a State, if the State—

(i) does not require the license or document to contain a social security account number; and

(ii) requires—

(I) every applicant for a driver's license, or other comparable identification document, to submit the applicant's social security account number; and

(II) an agency of the State to verify with the Social Security Administration that such account number is valid.

(C) **DEADLINE.**—The Secretary of Transportation shall promulgate the regulations referred to in clauses (i) and (iii) of subparagraph (A) not later than 1 year after the date of the enactment of this Act.

(2) **GRANTS TO STATES.**—Beginning on the date final regulations are promulgated under paragraph (1), the Secretary of Transportation shall make grants to States to assist them in issuing driver's licenses and other comparable identification documents that satisfy the requirements under such paragraph.

(3) **EFFECTIVE DATES.**—

(A) **IN GENERAL.**—Except as otherwise provided in this paragraph, this subsection shall take effect on the date of the enactment of this Act.

(B) **PROHIBITION ON FEDERAL AGENCIES.**—Subparagraphs (A) and (B) of paragraph (1) shall take effect beginning on October 1, 2000, but shall apply only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses or documents issued according to State law.

(c) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social security account number or a State or Federal document related to identification or immigration.

(d) **FEDERAL AGENCY DEFINED.**—For purposes of this section, the term "Federal agency" means any of the following:

(1) An Executive agency (as defined in section 105 of title 5, United States Code).

(2) A military department (as defined in section 102 of such title).

(3) An agency in the legislative branch of the Government of the United States.

(4) An agency in the judicial branch of the Government of the United States.

SEC. 657. DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD.

(a) **DEVELOPMENT.**—

(1) **IN GENERAL.**—The Commissioner of Social Security (in this section referred to as the "Commissioner") shall, in accord-

ance with the provisions of this section, develop a prototype of a counterfeit-resistant social security card. Such prototype card—

(A) shall be made of a durable, tamper-resistant material such as plastic or polyester;

(B) shall employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits; and

(C) shall be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(2) **ASSISTANCE BY ATTORNEY GENERAL.**—The Attorney General shall provide such information and assistance as the Commissioner deems necessary to achieve the purposes of this section.

(b) **STUDIES AND REPORTS.**—

(1) **IN GENERAL.**—The Comptroller General and the Commissioner of Social Security shall each conduct a study, and issue a report to the Congress, that examines different methods of improving the social security card application process.

(2) **ELEMENTS OF STUDIES.**—The studies shall include evaluations of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3, 5, and 10 year period. The studies shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3, 5, and 10 year phase-in options.

(3) **DISTRIBUTION OF REPORTS.**—Copies of the reports described in this subsection, along with facsimiles of the prototype cards as described in subsection (a), shall be submitted to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate not later than 1 year after the date of the enactment of this Act.

SEC. 658. BORDER PATROL MUSEUM.

(a) **AUTHORITY.**—Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or any other provision of law, the Attorney General is authorized to transfer and convey to the Border Patrol Museum and Memorial Library Foundation, incorporated in the State of Texas, such equipment, artifacts, and memorabilia held by the Immigration and Naturalization Service as the Attorney General may determine is necessary to further the purposes of the Museum and Foundation.

(b) **TECHNICAL ASSISTANCE.**—The Attorney General is authorized to provide technical assistance, through the detail of personnel of the Immigration and Naturalization Service, to the Border Patrol Museum and Memorial Library Foundation for the purpose of demonstrating the use of the items transferred under subsection (a).

SEC. 659. SENSE OF THE CONGRESS REGARDING THE MISSION OF THE IMMIGRATION AND NATURALIZATION SERVICE.

It is the sense of the Congress that the mission statement of the Immigration and Naturalization Service should include a statement that it is the responsibility of the Service to detect, apprehend, and

. To: <ibueno@OS.DHHS.GOV>
From: AMY NEVEL <anevel@OSASPE.DHHS.GOV>
Cc:
Bcc:
Subject: Birth Certificate Rule
Attachment: Headers.822
Date: 1/15/98 11:47 AM

Thought you might be interested in the attached for consideration in our on going discussions for implementation of the birth certificate stuff. In particular, I agree with Mike's point about ACF.

Date: Thu, 15 Jan 1998 11:42:14 -0500
From: MICHAEL PEPPER <mpepper@OSASPE.DHHS.GOV>
To: anevel@OSASPE.DHHS.GOV
Subject: Birth Certificate Rule -Reply -Reply -Reply

ACF has an interest from a couple stand points.
1) They have responsibility for the paternity initiative and to identify fathers at time of birth. This includes having father identified on the child's birth certificate. 2) The other interest is in awarding extra federal funds to States based on their reduction in out of wedlock birth. The data for the reduction comes through birth certificate info.

>>> AMY NEVEL 01/15/98 11:38am >>>
Can you tell me more about why you think ACF would have an interest here?

>>> MICHAEL PEPPER 01/15/98 11:35am >>>
Your response sort of jibes with what I was suggesting to you yesterday. That perhaps this may be a suitable candidate regulation for the data council to take up, although I'm reluctant to recommend it, because of the problems the data council has in dealing with regulations. I would also mention ACF has some interests in the birth certificate issue as well.

>>> AMY NEVEL 01/15/98 10:11am >>>
CDC came up with a reason I hadn't thought of for them not doing the rule on birth certificates and now I'm on their side. Since they are end users of the information about the birth and not the birth certificate they have no interest in what the certificate looks like. They purposed that end users of the document should regulate it such as SSA or INS. They don't really want State or INS to regulate it because they wouldn't necessarily care about the integrity of the information on the certificate, but they think SSA would. Another possibility is that

Justice would be the right agency since they are a law enforcement agency.

We also discussed the idea that NCHS will have to give grants based on the rule so why wouldn't they want control over the rule. They said there are other examples where they give money and don't have control over the rules about it so it doesn't matter to them. They also don't think the money will ever be appropriated so that aspect is not worth considering.

We also discussed the possibility that the White House will say that HHS has to do it no matter what we say. NCHS would still not want to do it and recommended that another part of HHS do it. Andy Hyman suggested ASPE since we recently promulgated a rule on means-tested benefits. I did not support or reject this, but suggested that if HHS has to do it we will need to have boarder discussions in the Department about who should do it.

We are going to the White House with the following options:

(1) CDC/NCHS would be substantially involved in the development of the standard--could even be the convener.

(2) Recommend an end-user promulgate the rule.
We recommend SSA or Justice in that order.

(3) HHS will do it and we'll determine which part should do it.

Birth Certificate Mtg 1/14/97

<u>Name</u>	<u>Phone</u>	<u>Room</u>
✓ James IVERY	401-5781	618E
Sandy Aguilar	401-5631	612E
Amy Nobel	690-7795	442E (fw mail)
Carol L. Roddy	205-0152	411B (office)
✓ Andy Hyman	690-6318	721H
Ed Hunter	301-436-7142	707 F
✓ Bob Miron	690-8598	714B
✓ Kristin Siebenaler	205-9042	607H
David		

To: Andrew D. Hyman@OGC.IO, Dennis Hayashi@OCR.DO, Genie
Chough@ASMB.BUDG, INTERNET[CRoddy@OSOPHS.DHHS.GOV],
INTERNET[dnielsen@OSASPE.DHHS.GOV],
INTERNET[lsanches@OSASPE.DHHS.GOV], James Ivery@IOS.IGA, Kristin
Siebenaler@IOS.ES, Sandra Aguilar@IOS.IGA, Sean Donohue@ASL

URGENT

From: Irene Bueno@ASL

Cc: INTERNET[roil@CDC.GOV], MarkM@ASL

Bcc: Beatrice Butler@ASL

Subject: Birth Certificates Meeting - message #2

Attachment:

Date: 1/12/98 10:14 AM

For some reason, the earlier message I sent to everyone was erased. I will try again.

I am writing to invite you to a meeting to discuss section 656 of the Immigration Reform and Responsibility Act of 1996 tomorrow, Tuesday, 1/13/98 at 2 pm in 423G.

Among other things, section 656 requires the President to designate an agency to promulgate regulations on birth certificates.

White House DPC staff are leaning toward designating CDC as the agency and very anxious about designating the agency since the regulations were due out last year.

CDC has substantial expertise in this area and CDC would like to be involved in the development of the regulations. However, CDC is concerned about being designated the lead agency since they do not normally promulgate and enforce regulations.

I would like your input on options that we could present to the White House. I will send a copy of the section to everyone prior to the meeting. Please review and share with us your ideas.

If you have any questions about this section, please contact Bob Irwin, CDC 690-8598 or me.

Please let know if you will be attending the meeting.

Thanks.

order. Such study shall include a re-evaluation between any incidents of harassment imposition of the New Brunswick goods purchased in the United States by, and with any other actions taken by governments to deter cross-border com-

In conducting the study under paragraph of the United States Customs Service representatives of the State of Maine, businesses, and any other knowledgeable commissioner considers to be important study.

Within 120 days after the date of the enactment of the United States Customs Committee on the Judiciary of the House of Representatives a report on the study subsection (a). The report shall include a statement of the United States Government can be made by Canadian customs agents that

ON DISCRIMINATORY APPLICATION OF PROVINCIAL SALES TAX.

finds as follows:
Canadian customs officers began collecting provincial sales tax on goods imported by New Brunswick residents, an economic harm to United States proximity to the border with New Brunswick.

to cross-border trade compounds the economic harm to the Canadian Government's imposition of goods bought by Canadians in the

of New Brunswick provincial sales tax on goods of New Brunswick is effected only at the Canadian border, not along New Brunswick's border with other Canadian provinces; the tax is levied by Canadian authorities in a manner that discriminates against Canadians shopping in the United States.

the United States Trade Representative has not taken any action to seek redress from the Government of New Brunswick provincial sales tax claim process in chapter 20 of the North American Free Trade Agreement (NAFTA), but the United States Trade Representative has still not made such a claim.

the United States Trade Representative has not taken any action to seek redress from the Government of New Brunswick provincial sales tax claim process in chapter 20 of the North American Free Trade Agreement (NAFTA), but the United States Trade Representative has still not made such a claim.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—
(1) the provincial sales tax levied by the Canadian province of New Brunswick on Canadian citizens of that province who purchase goods in the United States—

(A) raises questions about a possible violation of the North American Free Trade Agreement in the discriminatory application of the tax to cross-border trade with the United States; and

(B) damages good relations between the United States and Canada; and

(2) the United States Trade Representative should move forward without further delay in seeking redress under the dispute resolution process in chapter 20 of the North American Free Trade Agreement for the violation.

SEC. 656. IMPROVEMENTS IN IDENTIFICATION-RELATED DOCUMENTS.

(a) BIRTH CERTIFICATES.—

(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(A) IN GENERAL.—

(i) GENERAL RULE.—Subject to clause (ii), a Federal agency may not accept for any official purpose a certificate of birth, unless the certificate—

(I) is a birth certificate (as defined in paragraph (3)); and

(II) conforms to the standards set forth in the regulation promulgated under subparagraph (B).

(ii) APPLICABILITY.—Clause (i) shall apply only to a certificate of birth issued after the day that is 3 years after the date of the promulgation of a final regulation under subparagraph (B). Clause (i) shall not be construed to prevent a Federal agency from accepting for official purposes any certificate of birth issued on or before such day.

(B) REGULATION.—

(i) CONSULTATION WITH GOVERNMENT AGENCIES.—

~~The President shall select one or more Federal agencies to consult with State vital statistics offices, and with other appropriate Federal agencies designated by the President, for the purpose of developing appropriate standards for birth certificates that may be accepted for official purposes by Federal agencies as provided in subparagraph (A).~~

(ii) SELECTION OF LEAD AGENCY.—Of the Federal agencies selected under clause (i), the President shall select one agency to promulgate, upon the conclusion of the consultation conducted under such clause, a regulation establishing the standards of the type described in such clause.

(iii) DEADLINE.—The agency selected under clause (ii) shall promulgate a final regulation under such clause not later than the date that is 1 year after the date of the enactment of this Act.

(iv) MINIMUM REQUIREMENTS.—The standards established under this subparagraph—

(I) at a minimum, shall require certification of the birth certificate by the State or local custodian of record that issued the certificate, and shall require the use of safety paper, the seal of the issuing custodian of record, and other features designed to limit tampering, counterfeiting, and photocopying, or otherwise duplicating, the birth certificate for fraudulent purposes;

(II) may not require a single design to which birth certificates issued by all States must conform; and

(III) shall accommodate the differences between the States in the manner and form in which birth records are stored and birth certificates are produced from such records.

(2) GRANTS TO STATES.—

(A) ASSISTANCE IN MEETING FEDERAL STANDARDS.—

(i) IN GENERAL.—~~Beginning on the date a final regulation is promulgated under paragraph (1)(B), the Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in issuing birth certificates that conform to the standards set forth in the regulation.~~

(ii) ALLOCATION OF GRANTS.—~~The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to issue birth certificates that conform to the standards described in clause (i).~~

(B) ASSISTANCE IN MATCHING BIRTH AND DEATH RECORDS.—

(i) IN GENERAL.—~~The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in developing the capability to match birth and death records, within each State and among the States, and to note the fact of death on the birth certificates of deceased persons. In developing the capability described in the preceding sentence, a State that receives a grant under this subparagraph shall focus first on individuals born after 1950.~~

(ii) ALLOCATION AND AMOUNT OF GRANTS.—~~The Secretary shall provide grants to States under this subparagraph in proportion to the populations of the States applying to receive a grant and in an amount needed to provide a substantial incentive for States to develop the capability described in clause (i).~~

(C) DEMONSTRATION PROJECTS.—~~The Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics, shall make grants to States for a project in each of 5 States to demonstrate the feasibility of a system under which persons otherwise required to report the death of individuals to a State would be required to provide to the State's office of vital statistics sufficient information to establish the fact of death of every individual dying in the State within 24 hours of acquiring the information.~~

(3) BIRTH CERTIFICATE.—As used in this subsection, the term "birth certificate" means a certificate of birth—

(A) of—

- (i) an individual born in the United States; or
- (ii) an individual born abroad—

(I) who is a citizen or national of the United States at birth; and

(II) whose birth is registered in the United States; and

(B) that—

(i) is a copy, issued by a State or local authorized custodian of record, of an original certificate of birth issued by such custodian of record; or

(ii) was issued by a State or local authorized custodian of record and was produced from birth records maintained by such custodian of record.

(b) STATE-ISSUED DRIVERS LICENSES AND COMPARABLE IDENTIFICATION DOCUMENTS.—

(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(A) IN GENERAL.—~~A Federal agency may not accept for any identification-related purpose a driver's license, or other comparable identification document, issued by a State, unless the license or document satisfies the following requirements:~~

(i) APPLICATION PROCESS.—~~The application process for the license or document shall include the presentation of such evidence of identity as is required by regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators.~~

(ii) SOCIAL SECURITY NUMBER.—~~Except as provided in subparagraph (B), the license or document shall contain a social security account number that can be read visually or by electronic means.~~

(iii) FORM.—~~The license or document otherwise shall be in a form consistent with requirements forth in regulations promulgated by the Secretary of Transportation after consultation with the American Association of Motor Vehicle Administrators. The form shall contain security features designed to limit tampering, counterfeiting, photocopying, or otherwise duplicating, the license or document for fraudulent purposes and to limit use of the license or document by impostors.~~

(B) **EXCEPTION.**—The requirement in subparagraph (A)(ii) shall not apply with respect to a driver's license or other comparable identification document issued by a State, if the State—

(i) does not require the license or document to contain a social security account number; and

(ii) requires—

(I) every applicant for a driver's license, or other comparable identification document, to submit the applicant's social security account number; and

(II) an agency of the State to verify with the Social Security Administration that such account number is valid.

(C) **DEADLINE.**—The Secretary of Transportation shall promulgate the regulations referred to in clauses (i) and (iii) of subparagraph (A) not later than 1 year after the date of the enactment of this Act.

(2) **GRANTS TO STATES.**—Beginning on the date final regulations are promulgated under paragraph (1), the Secretary of Transportation shall make grants to States to assist them in issuing driver's licenses and other comparable identification documents that satisfy the requirements under such paragraph.

(3) **EFFECTIVE DATES.**—

(A) **IN GENERAL.**—Except as otherwise provided in this paragraph, this subsection shall take effect on the date of the enactment of this Act.

(B) **PROHIBITION ON FEDERAL AGENCIES.**—Subparagraphs (A) and (B) of paragraph (1) shall take effect beginning on October 1, 2000, but shall apply only to licenses or documents issued to an individual for the first time and to replacement or renewal licenses or documents issued according to State law.

(c) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit a report to the Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates, including any such use to obtain a social security account number or a State or Federal document related to identification or immigration.

(d) **FEDERAL AGENCY DEFINED.**—For purposes of this section, the term "Federal agency" means any of the following:

(1) An Executive agency (as defined in section 105 of title 5, United States Code).

(2) A military department (as defined in section 102 of such title).

(3) An agency in the legislative branch of the Government of the United States.

(4) An agency in the judicial branch of the Government of the United States.

SEC. 657. DEVELOPMENT OF PROTOTYPE OF COUNTERFEIT-RESISTANT SOCIAL SECURITY CARD.

(a) **DEVELOPMENT.**—

(1) **IN GENERAL.**—The Commissioner of Social Security (in this section referred to as the "Commissioner") shall, in accord-

ance with the provisions of this section, develop a prototype of a counterfeit-resistant social security card. Such prototype card—

(A) shall be made of a durable, tamper-resistant material such as plastic or polyester;

(B) shall employ technologies that provide security features, such as magnetic stripes, holograms, and integrated circuits; and

(C) shall be developed so as to provide individuals with reliable proof of citizenship or legal resident alien status.

(2) **ASSISTANCE BY ATTORNEY GENERAL.**—The Attorney General shall provide such information and assistance as the Commissioner deems necessary to achieve the purposes of this section.

(b) **STUDIES AND REPORTS.**—

(1) **IN GENERAL.**—The Comptroller General and the Commissioner of Social Security shall each conduct a study, and issue a report to the Congress, that examines different methods of improving the social security card application process.

(2) **ELEMENTS OF STUDIES.**—The studies shall include evaluations of the cost and work load implications of issuing a counterfeit-resistant social security card for all individuals over a 3, 5, and 10 year period. The studies shall also evaluate the feasibility and cost implications of imposing a user fee for replacement cards and cards issued to individuals who apply for such a card prior to the scheduled 3, 5, and 10 year phase-in options.

(3) **DISTRIBUTION OF REPORTS.**—Copies of the reports described in this subsection, along with facsimiles of the prototype cards as described in subsection (a), shall be submitted to the Committees on Ways and Means and Judiciary of the House of Representatives and the Committees on Finance and Judiciary of the Senate not later than 1 year after the date of the enactment of this Act.

SEC. 658. BORDER PATROL MUSEUM.

(a) **AUTHORITY.**—Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or any other provision of law, the Attorney General is authorized to transfer and convey to the Border Patrol Museum and Memorial Library Foundation, incorporated in the State of Texas, such equipment, artifacts, and memorabilia held by the Immigration and Naturalization Service as the Attorney General may determine is necessary to further the purposes of the Museum and Foundation.

(b) **TECHNICAL ASSISTANCE.**—The Attorney General is authorized to provide technical assistance, through the detail of personnel of the Immigration and Naturalization Service, to the Border Patrol Museum and Memorial Library Foundation for the purpose of demonstrating the use of the items transferred under subsection (a).

SEC. 659. SENSE OF THE CONGRESS REGARDING THE MISSION OF THE IMMIGRATION AND NATURALIZATION SERVICE.

It is the sense of the Congress that the mission statement of the Immigration and Naturalization Service should include a statement that it is the responsibility of the Service to detect, apprehend, and

Your Copy

11/12/97

NOTE TO ANDY HYMAN:

The White House is considering which agency will be required to implement section 656 of the Illegal Immigration Reform and Immigration Responsibility Act of 1996. Please see attached bill language.

Briefly, Section 656 requires that a federal agencies must accept only birth certificates that meet certain regulations. The President shall designate a federal agency to promulgate regulations creating a standardize birth certificates that states are required to issue. HHS is required to make grants available to states to help states comply with these regulations.

CDC has the expertise in this area but they have concerns about the enforcement requirements under this section. CDC has no concerns about drafting the regulations but they are concerned if they are required to enforce the regulations.

I would like your advice on the following questions:

- What enforcement actions would the designated agency be required to carry out under this provision? *yes*
- If CDC promulgated the regulations, could another HHS agency such as Inspector General enforce these provisions? *yes*
- If CDC promulgated the regulations, could another federal agency such as INS enforce these provisions? *yes*

Please advise or refer me to the appropriate person or call me or Bob Irwin, CDC 690-8598 if you have any questions.

Thanks.

Irene B. Bueno

cc: Bob Irwin, CDC

Anthony - 226.2539

~~to~~ this afternoon

2125
Laybarn

Main HHS -

Julie Fernandez - DPC

Should be HHS -

Indragree coordination
Enforcement - INS
Resource -

What if any - should be burden
Enforcement.

(FPB)

Legal grounds

Bob

provide expertise on the regulations

DOJ

INS Regs

To : INTERNET[roil@CDC.GOV]
Cc :
Bcc :
From : Irene Bueno@ASL@OS.DC
Subject : re: Birth Certificate
Date : Monday, December 8, 1997 at 4:30:35 pm EST
Attach :
Certify : N
Encrypt : N
Forwarded By: Irene Bueno@ASL@OS.DC

Comments by : Irene Bueno@ASL@OS.DC
Date : Monday, December 8, 1997 16:30:34
Forwarded to : INTERNET[roil@CDC.GOV]
Comments:

We should probably discuss the next steps given Andy's view.

----- [Original Message] -----

To : Irene Bueno@ASL
From : Andrew D. Hyman@OGC.IO@OS.DC
Subject : re: Birth Certificate
Date : Friday, December 5, 1997 at 5:48:16 pm EST

Sorry for neglecting to get back to you. The short answer is that there does not appear to be a legal basis to not doing it; this does not mean, of course, that there not good policy/adminstrative arguments as to why it should be done somewhere else (e.g., SSA).

Original Text

From: Irene Bueno@ASL@OS.DC, on 12/5/97 05:47 PM:
Any update on the GC analysis of the birth certificate provision of IRAIRA?

Please let me know.

Thanks.n

No legal prohibition to COC



**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
200 INDEPENDENCE AVE., SW
WASHINGTON, D.C. 20201**

PHONE: (202) 690-6786

FAX: (202) 690-6351

**OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION
CONGRESSIONAL LIAISON OFFICE
ROOM 406G HUMPHREY BUILDING**

TO: LeAnne Shimabukro **456-5574** *456-5581*
Jack Smalligan **395-0851**

FROM: Irene B. Bueno

DATE: 11/7/97

FAX NO: See above

TOTAL PAGES
INCLUDING COVER): 5

As you may recall, the Immigration Reform bill included a provision related to birth certificates that requires the President to designate an agency to implement this provision. I had mentioned this to Steve Warnath but have not heard back. Regulations were to be promulgated back in September (ie. One year after enactment).

Attached is copy of the provision and a letter to the President on this issue.

We have not heard from the Hill on this provision but we got a call from the Congressional Research Service (CRS)

What is the status of the President's designation? Please advise or let me know if you have any questions 202-690-6786. Thanks.

To : <ibueno@os.dhhs.gov>
Cc :
Bcc :
From : Dlgonella@aol.com
Subject : CA visit
Date : Tuesday, November 11, 1997 at 7:33:43 am EST
Attach : Headers.822
Certify : N
Encrypt : N

Hello Irene,

How are you? Busy i'm sure...The weather in california is finally starting to feel a little like fall. Nancy tells me you are planning a trip to CA around the holidays. She has mentioned the idea of going to napa for a gathering. It probably depends on the weather. I'll talk to nancy again to arrange details. Let us know what days would be best for you and Jim. I know that Mr. Swan often comes out to Berkeley without a word. I'm trying to track him down to see if he also will be in Ca. hope all is well. I'm working some and playing a great deal. take care debra

7/12/97
DATE: ~~6/10/97~~



U.S. DEPARTMENT OF HEALTH AND HUMAN
SERVICES
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FAX: (202)690-6351

OFFICE OF THE DEPUTY ASSISTANT SECRETARY
CONGRESSIONAL LIAISON OFFICE

TO: Steve Warnath

OFFICE: _____

ROOM: _____

PHONE: _____

FAX: 395-5567

FROM:

☒ IRENE BUENO

☐ GERI GOINS

☐ MARK MAGAÑA

☐ MARION ROBINSON

☐ CYNTHIA JOYCE

☐ TIJUANA TRIPPLET

☐ STACEYE ARRINGTON

☐ BEATRICE BUTLER

TOTAL PAGES
(INCLUDING COVER): 3

REMARKS:

Birth Certificates Letter.

September 24, 1996

CONGRESSIONAL RECORD—HOUSE

H10889

(c) DEFINITIONS.—As used in this section:
(1) INTERNATIONAL MATCHMAKING ORGANIZATION.—

(A) IN GENERAL.—The term "international matchmaking organization" means a corporation, partnership, business, or other legal entity, whether or not organized under the laws of the United States or any State, that does business in the United States and for profit offers to United States citizens or aliens lawfully admitted for permanent residence, dating, matrimonial, or social referral services to nonresident noncitizens, by—

(i) an exchange of names, telephone numbers, addresses, or statistics;

(ii) selection of photographs; or

(iii) a social environment provided by the organization in a country other than the United States.

(B) EXCEPTION.—Such term does not include a traditional matchmaking organization of a religious nature that otherwise operates in compliance with the laws of the countries of the recruits of such organization and the laws of the United States.

(2) RECRUIT.—The term "recruit" means a noncitizen, nonresident person, recruited by the international matchmaking organization for the purpose of providing dating, matrimonial, or social referral services to United States citizens or aliens lawfully admitted for permanent residence.

SEC. 602. REVIEW AND REPORT ON H-2A NON-IMMIGRANT WORKER PROGRAM

(a) SENSE OF THE CONGRESS.—It is the sense of the Congress that the H-2A nonimmigrant worker program should be reviewed and may need improvement in order to meet the need of producers of labor-intensive agricultural commodities and livestock in the United States for an adequate workforce.

(b) REVIEW.—The Comptroller General shall review the effectiveness of the H-2A nonimmigrant worker program to ensure that the program provides a sufficient supply of agricultural labor in the event of future shortages of domestic workers after the enactment of this Act. Among other things, the Comptroller General shall review the H-2A nonimmigrant worker program to determine—

(1) whether the program ensures that an adequate supply of qualified United States workers is available at the time and place needed for employers seeking such workers after the date of enactment of this Act;

(2) whether the program ensures that there is timely approval of applications for temporary foreign workers under the program in the event of shortages of United States workers after the date of the enactment of this Act;

(3) whether the program ensures that implementation of the program is not displacing United States agricultural workers or diminishing the terms and conditions of employment of United States agricultural workers;

(4) if, and to what extent, the program is contributing to the problem of illegal immigration; and

(5) that the program adequately meets the needs of agricultural employers for all types of temporary foreign agricultural workers, including higher-skilled workers in occupations which require a level of specific vocational preparation of 4 or higher (as described in the 4th edition of the Dictionary of Occupational Titles, published by the Department of Labor).

(c) REPORT.—Not later than December 31, 1998, or 3 months after the date of the enactment of this Act, whichever occurs earlier, the Comptroller General shall submit a report to the appropriate committees of the Congress setting forth the conclusions of the Comptroller General from the review conducted under subsection (b).

(d) DEFINITIONS.—As used in this section:

(1) The term "Comptroller General" means the Comptroller General of the United States.

(2) The term "H-2A nonimmigrant worker program" means the program for the admission of

nonimmigrant aliens described in section 101(a)(15)(H)(i)(II) of the Immigration and Nationality Act.

SEC. 604. REPORT ON ALLEGATIONS OF HARASSMENT BY CANADIAN CUSTOMS AGENTS

(a) STUDY AND REVIEW.—

(1) IN GENERAL.—Not later than 30 days after the date of the enactment of this Act, the Commissioner of the United States Customs Service shall initiate a study of harassment by Canadian customs agents allegedly undertaken for the purpose of deterring cross-border commercial activity along the United States-New Brunswick border. Such study shall include a review of the possible connections between any incidents of harassment and the discriminatory imposition of the New Brunswick provincial sales tax on goods purchased in the United States by New Brunswick residents, and with any other actions taken by the Canadian provincial government to deter cross-border commercial activity.

(2) CONSULTATION.—In conducting the study under paragraph (1), the Commissioner of the United States Customs Service shall consult with representatives of the State of Maine, local governments, local businesses, and any other knowledgeable persons who the Commissioner considers to be important to the completion of the study.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Commissioner of the United States Customs Service shall submit to the Committee on the Judiciary of the House of Representatives and of the Senate a report on the study and review conducted under subsection (a). The report shall include recommendations for steps that the United States Government can take to help and any harassment by Canadian customs agents that is found to have occurred.

SEC. 605. SENSE OF CONGRESS ON DISCRIMINATORY APPLICATION OF NEW BRUNSWICK PROVINCIAL SALES TAX

(a) FINDINGS.—The Congress finds as follows:
(1) In July 1993, Canadian customs officers began collecting an 11 percent New Brunswick provincial sales tax on goods purchased in the United States by New Brunswick residents; an action that has caused severe economic harm to United States businesses located in proximity to the border with New Brunswick.

(2) This impediment to cross-border trade compounds the damage already done from the Canadian Government's imposition of a 7 percent tax on all goods bought by Canadians in the United States.

(3) Collection of the New Brunswick provincial sales tax on goods purchased outside of New Brunswick is effected only along the United States-Canada border, not along New Brunswick's borders with other Canadian provinces; the tax is thus being administered by Canadian authorities in a manner uniquely discriminatory to Canadian shopping in the United States.

(4) In February 1994, the United States Trade Representative publicly stated an intention to seek redress from the discriminatory application of the New Brunswick provincial sales tax under the dispute resolution process in chapter 20 of the North American Free Trade Agreement (NAFTA), but the United States Government has still not made such a claim under NAFTA procedures.

(5) Initially, the United States Trade Representative argued that filing a New Brunswick provincial sales tax claim was delayed only because the dispute mechanism under NAFTA had not yet been finalized, but more than a year after such mechanism has been put in place, the claim has still not been put forward by the United States Trade Representative.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) the provincial sales tax levied by the Canadian province of New Brunswick on Canadian citizens of that province who purchase goods in the United States—

(A) raises questions about a possible violation of the North American Free Trade Agreement in the discriminatory application of the tax to cross-border trade with the United States; and

(B) damages good relations between the United States and Canada; and

(2) the United States Trade Representative should move forward without further delay in seeking redress under the dispute resolution process in chapter 20 of the North American Free Trade Agreement for the violation.

SEC. 606. IMPROVEMENTS IN IDENTIFICATION-RELATED DOCUMENTS

(a) BIRTH CERTIFICATES.—

(1) STANDARDS FOR ACCEPTANCE BY FEDERAL AGENCIES.—

(A) IN GENERAL.—

(i) GENERAL RULE.—Subject to clause (ii), a Federal agency may not accept for any official purpose a certificate of birth, unless the certificate—

(I) is a birth certificate (as defined in paragraph (3)) and;

(II) conforms to the standards set forth in the regulation promulgated under subparagraph (B).

(ii) APPLICABILITY.—Clause (i) shall only be a certificate of birth issued after the day that is 3 years after the date of the promulgation of a final regulation under subparagraph (B). Clause (i) shall not be construed to prevent a Federal agency from accepting for official purposes any certificate of birth issued on or before such day.

(B) REGULATION.—

(i) CONSULTATION WITH GOVERNMENT AGENCIES.—The President shall select 2 or more Federal agencies to consult with State vital statistics officers, and with other appropriate Federal agencies designated by the President, for the purpose of developing appropriate standards for birth certificates that may be accepted for official purposes by Federal agencies, as provided in subparagraph (A).

(ii) SELECTION OF LEAD AGENCY.—Of the Federal agencies selected under clause (i), the President shall select 1 agency to promulgate, upon the conclusion of the consultation conducted under such clause, a regulation establishing standards of the type described in such clause.

(iii) DEADLINE.—The agency selected under clause (ii) shall promulgate a final regulation under such clause, not later than the date that is 1 year after the date of the enactment of this Act.

(iv) MINIMUM REQUIREMENTS.—The standards established under this subparagraph—

(I) at a minimum, shall require certification of the birth certificate by the State or local jurisdiction of record that issued the certificate, shall require the use of safety paper, the seal of the issuing jurisdiction of record, and other features designed to limit tampering, counterfeiting, and photocopying, or otherwise duplicating the birth certificate for fraudulent purposes;

(II) may not require a single design in which birth certificates issued by all States must conform; and

(III) shall accommodate the differences between the States in the manner and form in which birth records are stored and birth certificates are produced from such records.

(2) GRANTS TO STATES.—

(A) ASSISTANCE IN MEETING FEDERAL STANDARDS.—

(i) IN GENERAL.—Beginning on the date a final regulation is promulgated under paragraph (1)(B), the Secretary of Health and Human Services, acting through the Director of the National Center for Health Statistics and after consulting with the head of any other agency designated by the President, shall make grants to States to assist them in issuing birth certificates that conform to the standards set forth in the regulation.

(ii) ALLOCATION OF GRANTS.—The Secretary shall provide grants to States under this subparagraph in proportion to the population of

Facsimile Transmittal Form



From the CENTERS FOR DISEASE CONTROL AND PREVENTION/National Center for Health Statistics

Date: June 18, 1997

Total Pages: 3 (Including this page)

To: Bob Irwin

Office: CDC/Washington

Confirmation Tel.#: 202 690 8598

Fax #: 202 690 7519

From: Ed Hunter

Office: OPBL

Confirmation Tel.#: 301 436-7142

Fax #: 301 436-3705

Comments:



Computer Version - 8/92
CDC/NCHS 64.92

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
Public Health Service
Centers for Disease Control
National Center for Health Statistics

CDC
CENTERS FOR DISEASE CONTROL

To : "Bueno, Irene (OS)" <IBUENO@OS.DHHS.GOV>"
Cc :
Bcc :
From : "Irwin, Robert (Bob)" <roil@ODDC1.EM.CDC.GOV>
Subject : birth certificates
Date : Wednesday, June 18, 1997 at 6:46:00 pm EDT
Attach : Headers.822
Certify : N
Encrypt : N

Irene: I want you to know I've been trying to get names of persons who would be good to invite to a birth certificate meeting, as we discussed. I'm not quite there yet. The principal knowledgeable person at NCHS has been on leave. He returns Friday. Ed Hunter promises he will have some information for me then.

In the meantime, I was called today by Jacky Stewart, GAO, who is, I believe, the same person who called you last week. She wanted me to tell her the status of our work on Sec. 656. I told her that we are very aware of the mandate, that we have had extensive internal conversations about it in the Dept. and had developed some initial views on approaches that might be suitable from the CDC/HHS perspective, but that, as far as we know, there has been no Administration decision on which entities would be the President's choice to lead the effort. I told her we were beginning to plan a meeting of the primary agencies that we thing would be interested, and that you are our contact on that. She seemed satisfied. She asked me to keep her posted, and I said I would.

Senate illegal immigration - Sec. 118. Improvements in Identification-Related Documents

* Prohibits Federal agencies and State agencies that issue driver's licenses or identification documents from accepting for official purposes a copy of a birth certificate unless it conforms to standards set out in federal regulations. These birth certificate standards will be promulgated in regulations by an agency designated by the President which must consult with other Federal agencies and the States in developing these regulations which would go into effect 2 years after enactment.

Establishes a grant program to the States administered by HHS through NCHS to develop the capability to match birth and death certificates, first focusing on persons born after 1950.

Establishes a grant program to the States administered by HHS through NCHS for projects in 5 states to demonstrate the feasibility of providing a State's office of vital statistics within 24 hours sufficient information establishing the fact of death of every individual dying in that State.

* Revises the definition of birth certificate to include birth certificates of persons born in the U.S. or born abroad who are citizens or nationals of the U.S. at birth.

Not later than 1 year after enactment HHS must submit a report to Congress on ways to reduce fraudulent use of birth certificates and the designated agency issuing the birth certificate standards regulations must submit a report to Congress explaining these regulations.

Such funds as necessary are authorized to be appropriated to HHS for both grant programs and the HHS report to Congress.

Nussbaum, Jayne

From: Nussbaum, Jayne
To: Bueno, Irene (OS)
Cc: Nussbaum, Jayne; Irwin, Robert (Bob)
Subject: Immigration - CDC comments on DoJ views letter
Date: Wednesday, April 03, 1996 5:15PM

SECTION 116

Attached are CDC's comments/suggested language to incorporate into the DoJ views letter to Senator Hatch on Section 116 of S. 269 and suggested technical changes to Sen. Simpson's amendment which we are proposing if we had to implement Section 116 as currently written in the bill. I will give you a mark up of this section which reflects these technical comments.

< < File Attachment: S269.4-3 > > < < File Attachment: S269COM3.329 > >

SECTION 154

p. 29-30 Strike last sentence "We would like to work..." and substitute "In working with your staff, we understand that ^{an} amendment may be proposed on the Senate floor that addresses our concerns regarding this section, which we support."

We would also like to submit some technical changes which I will give you on a mark up of the proposed Kyl amendment ~~dated 2/26/96~~.

Suggested Technical Changes to Simpson Amendment - Sec. 116 of S. 269

Preamble: As stated in the Administration's letter of February 14, 1996 to Senator Hatch, we remain concerned about the constitutional and operational aspects of attempting to regulate birth certificates. The language approved by the Committee represents an improvement over previous language, but the Department continues to prefer the study as proposed by the Administration, or the House language calling for a report on birth certificate fraud and a pilot project on linking states' birth and death information. The attached suggestions, therefore, are provided only to assist in making technical improvements in the Senate provision.

Sec. 116(a)(1)(A)

This section requires Federal agencies as well as state agencies that issue driver's licenses and identification documents to accept copies of birth certificates only if they meet certain standards. Deleting the reference to state agencies would lessen concerns about the constitutionality of this provision without seriously diminishing its impact. As a practical matter, if Federal agencies can accept only those copies of birth certificates meeting a certain format, states will be forced to adopt this format to respond to the needs of their citizens.

Sec. 116(a)(1)(B)

This section requires the Secretary of HHS to promulgate regulations specifying a standard format for copies of birth certificates. A non-regulatory approach to developing the standard would be easier and equally successful. HHS has a long history of working with states to develop voluntary, consensus standards for the data items to be collected as part of the birth registration process. A similar consensus process could be followed in developing a standard format for copies of birth certificates. In addition to consulting with the states, HHS would consult with SSA and the Departments of State, Justice and Transportation, all of whom would be required to accept the standard copy format. To give further credibility to the standard setting process and to address any issues of enforcement, the Justice Department should be given the responsibility for issuing regulations based on the outcome of the consensus process.

Sec. 116(a)(3)(A)(ii)

This section specifies that grant funds be provided in proportion to population and in an amount sufficient to provide a substantial incentive for states to develop the capability to match birth and death records. The actual cost of developing this capability has more to do with the technical issues of designing, establishing and maintaining a system for matching than with the actual volume of records. Also, if funding were based solely on population, it would probably not be sufficient to induce smaller states to develop the capability. If funding is provided for this provision, the language should permit the Secretary to determine the most appropriate and equitable way to distribute it.

Sec. 116(a)(4)

This section requires the Commissioner of SSA to submit a report on birth certificate fraud. This issue is of concern to a variety of agencies, all of whom should be consulted in the preparation of the report. In particular, HHS has had longstanding involvement in the birth registration process. The Secretary of HHS, therefore, should be responsible for any component of this study that might impact on HHS activities in this area.

Sec. 116(a)(6)

This section calls for implementation on October 1, 1997. This timeframe is too short. Time must be allowed for the actual development of the standard format, as well as time for states to make the agreed upon changes and agencies to implement new procedures. A minimum of two years would be appropriate.

SIMPSON AMENDMENT (1-7) TO REVISE BIRTH CERTIFICATE AND DRIVER'S LICENSE PROVISION

(1) Sec. 116(a) is amended to read as follows:

"(a)(1)(A) No Federal agency, including but not limited to the Social Security Administration and the Department of State, [and no State agency that issues driver's licenses or identification documents] may accept for any official purpose a copy of a U.S. birth certificate, as defined in paragraph (5), unless it is issued by a State or local government registrar and it conforms to standards described in subparagraph (B).

"(B) The standards described in this subparagraph are those set forth in regulations promulgated by the Secretary of Health and Human Services, after consultation with the Association for Public Health Statistics and Information Systems (APHIS), and shall include but not be limited to--

"(i) certification by the issuing agency, and

"(ii) use of safety paper, a seal of the issuing agency, and other features designed to make the certificate resistant to tampering, to counterfeiting, and to being used by imposters.

(c)

"(2) (A) If one or more of the conditions described in subparagraph (B) is present, no State or local government agency may issue an official copy of a U.S. birth certificate pertaining to an individual unless the copy prominently notes that such individual is deceased.

"(B) The conditions described in this subparagraph include (i) the presence on the original birth certificate of a notation that the individual is deceased, or (ii) actual knowledge by the issuing agency that the individual is deceased obtained through information provided by the Social Security Administration, by an interstate system of birth-death matching, or otherwise.

"(3)(A)(i) The Secretary of Health and Human Services shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States to encourage them to develop the capability to match birth and death records, within each State and among the States, focusing first on persons who were born after 1950, and to note the fact of death on the birth certificates of deceased persons

"(ii) Such grants shall be provided in proportion to population and in an amount needed to provide a substantial incentive for the States to

provided in an equitable manner.

the Social Security Administration, and the Department of State, Justice and Transportation.

(c) Regulations shall be promulgated by the Attorney General based on the standard setting process described in subparagraph (B).

develop such capability.

"(B) The Secretary of Health and Human Services shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States for a project in each of 5 States to demonstrate the feasibility of a system by which each such State's office of vital statistics would be provided, within 24 hours, sufficient information to establish the fact of death of every individual dying in such State.

"(C) There are authorized to be appropriated to the Department of Health and Human Services such amounts as may be necessary to provide the grants described in subparagraph (A) or (B).

"(4) Not later than one year after the enactment of this Act, the Commissioner of the Social Security Administration shall submit a report to Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates (including use to obtain a Social Security account number or a State or Federal document related to identification or immigration).

"(5) As used in this section, the term 'birth certificate' means a document certifying that a particular person has been born in the United States.

"(6) This subsection shall take effect on October 1, ¹⁹⁹⁸ [1997]."

(2) Sec. 116(b) is amended--

- (a) in paragraph (1), by striking the language after "number"; and
- (b) in paragraph (3), by striking the language after "imposters".

The report shall include analysis of the impact, as determined by the Secretary of Health and Human Services, on the quality, usefulness and timeliness of health and social service information obtained through the national vital statistics system.

in consultation with the States and the Departments of Health and Human Services, State, Justice and Immigration.

Estimated Cost of Mandating that People Doing Business
with the Social Security Administration Have a New Birth Certificate

- The Social Security Administration (SSA) has estimated that the cost to senior citizens and others who do business with SSA of a mandate to obtain a new birth certificate would be **at least \$100 million annually**.
- The Immigration bill being considered by the Senate Judiciary Committee includes a provision that would require people who need a birth certificate in order to conduct business with SSA to obtain one with enhanced security features. Otherwise-valid birth certificates that did not have the enhanced security features would be unacceptable.
- SSA estimates that about **10 million person annually** would have to purchase a new birth certificate as a result of this bill. Of these, **about 5 million** would be elderly persons apply for cash benefits or Medicare. **Another 5 million** would be people who apply for Social Security cards.
- Currently, State or local governments charge for birth certificates. For example, in Ohio, most counties currently charge \$7. SSA's estimated annual cost of compliance with the birth certificate provision assumes that the additional security features would only marginally increase the cost of a birth certificate to approximately \$10 apiece.
- It must be remembered, however, that the estimated 10 million persons needing these new birth certificates as a result of these new provisions, would not have incurred any expense previously because they could have continued to use the birth certificate in their possession.
- The actual price of a new birth certificate would depend on the number of security features that were mandated. If the price were to be \$15, then the total cost of compliance of this provision, just for persons conducting business with SSA, would be **\$150 million annually**.

cations would not be used for purposes of immigration law enforcement. A limited waiver of such confidentiality, subject to prior approval by a federal judge, is appropriate in order to identify an alien who is dead or severely incapacitated, or if the alien is alleged to have committed a serious criminal offense after the date of the application. Disclosure in these limited circumstances will not undermine the initial policy of confidentiality. An alien filing for legalization did not have a reasonable expectation, under the laws existing at that time, that information in his or her application could not be used for the purpose of identifying that alien for compelling circumstances, unrelated to immigration enforcement, that would arise after the filing of the application. The government interest in securing such information is compelling, and the requirement of judicial approval will further ensure that the legitimate confidentiality rights of legalization applicants are protected.

This section also clarifies that information outside of the actual application for legalization, as well as information limited to the date and disposition of the application, does not fall within the original confidentiality provisions on sections 210 and 245A, and can be used for immigration enforcement or other purposes without prior judicial approval. This clarification is needed because in certain circumstances, these confidentiality provisions have been erroneously interpreted to prohibit the disclosure of information in INS files pertaining to the disposition of the application, but not information contained in the application itself. The plain language in sections 245A(c)(5) and 210(b) is addressed solely to the contents of the application, not to information regarding the disposition of the application or the alien's subsequent immigration status.

Sec. 810—Change of nonimmigrant application

This section amends section 248 to provide that an alien whose status is changed under section 248 may apply directly to the Secretary of State for a visa without having to leave the United States.

Subtitle B—Other Provisions.

Sec. 831—Commission report on fraud associated with birth certificates

This section amends section 141(c) of the Immigration Act of 1990 to require that the Commission on Immigration Reform shall study and submit to Congress, not later than January 1, 1997, a report containing recommendations of methods to reduce or eliminate the fraudulent use of birth certificates for the purposes of obtaining identification documents that may be used to obtain benefits relating to immigration and employment. The Commission shall consider proposals to adopt national standards for issuing birth certificates and to limit the issuance of an individual's birth certificate to any person other than the individual or his or her representative.

Sec. 832—Uniform vital statistics

This section requires the Secretary of Health and Human Services, within 2 years of the date of enactment, to establish a pilot program for 3 of the 5 States with the largest population of un-

documented aliens for linking through electronic network the vital statistics records of such States. The network shall provide for the matching of deaths and births and shall institute measures to protect the integrity of the records, specifically to prevent fraud against the Government through use of false birth and death certificates. The Secretary shall issue a report to Congress not later than 180 days after establishment of the pilot program with recommendations on how the pilot program could be implemented as a national network.

Sec. 833—Communication between state and local government agencies, and the immigration and naturalization service

This section provides that notwithstanding any other provision of Federal, State, or local law, no State or local government entity shall prohibit or in any way restrict any government entity or official from sending to or receiving from the INS information regarding the immigration status of an alien in the United States.

The Committee intends to give State and local officials the authority to communicate with the INS regarding the presence, whereabouts, and activities of illegal aliens. This section is designed to prevent any State or local law, ordinance, executive order, policy, constitutional provision, or decision of any Federal or State court that prohibits or in any way restricts any communication between State and local officials and the INS. The Committee believes that immigration law enforcement is as high a priority as other aspects of Federal law enforcement, and that illegal aliens do not have the right to remain in the U.S. undetected and unapprehended.

Sec. 834—Criminal alien reimbursement costs

This section provides that amounts appropriated to carry out section 501 of the Immigration Control and Reform Act of 1986 shall be available to carry out section 242(j) of the INA with respect to undocumented criminal aliens incarcerated by the political subdivisions of a State.

Sec. 835—Female genital mutilation

This section requires aliens from certain countries specified by the INS in consultation with the Secretary of State to be advised prior to or at the time of entry into the United States of the severe harm caused by female genital mutilation and the potential legal consequences in the United States of performing female genital mutilation or of allowing a child to be subjected to female genital mutilation.

Sec. 836—Designation of Portugal as a visa waiver pilot program country with probationary status

This section designates Portugal as a visa waiver pilot program country with probationary status under section 217(g) for each of the fiscal years 1996, 1997, and 1998.

DRAFT

Talking Points on Simpson Amendment

The original Simpson bill provisions had the potential for significant disruption of the vital registration system, and therefore potential for loss of important data for public health

The current Simpson amendment (substitute) requires that a standard format for birth certificates be established by regulation; that certificates in any other format could not be accepted by Federal agencies or by State agencies issuing driver's licenses; and that States match death information back to birth certificates to prevent fraud.

This amendment raises significant issues and potential problems that should be studied before implementation. For example:

- CDC has a long history of developing voluntary, consensus standards and approaches with States in vital registration, since birth and death certificates are important sources of statistics on a variety of public health and social services information. However, the amendment envisions a regulatory role for CDC in an area that is primarily oriented toward law enforcement, not public health. It would be inappropriate for a public health agency to issue regulations that would apply to passport offices, motor vehicle offices, county registration clerks, etc.
- Vital registration is a State function, and it is not clear how provisions of this amendment would be enforced. CDC should not be placed in the position of monitoring State implementation, or Federal agency and State motor vehicle administration compliance with the provisions of the amendment.
- The provisions to retroactively match deaths for persons under 45 to birth certificates is a potentially large unfunded mandate on States. Although there is authorization for appropriations for this activity, it is potentially costly and it is unlikely that appropriations will be forthcoming. It is also not clear that States would be technically capable of performing these retroactive matches in the near term.
- The amendment would in effect require that enormous numbers of the public would have to obtain replacement birth certificates before obtaining a driver's license, applying for Social Security or Medicare, obtaining a passport, or other official business. This would represent a great time delay, inconvenience and cost to the public. As an example, there are about 60 million Americans under 16. If each would have to obtain a new birth certificate before applying for driver's licenses, and States charged an average of \$10 for a certified birth certificate, this would cost these teenagers a total of \$600 million. Add to this total the number the "baby boom" population as it applies for Social Security, those applying annually for passports, etc., and this cost could be significant to the economy.

The Administration has drafted an alternative that would provide for a more complete study of document security issues before untested ideas are mandated in law.

More detailed comments:

If this amendment is pursued, several more technical issues need to be addressed.

Specifying a standard form for state issuance of copies of birth certificates including security features could be done. HHS already specifies a recommended standard certificate for collection of birth information, the elements of which are updated periodically in a joint Federal/State effort. However, these are voluntary, collaborative efforts with States and other interested groups, based on issues primarily related to public health statistics.

Because of their interest in this issue, agencies in addition to HHS should be involved in this process. The language should specify consultation by HHS with the Departments of State, Justice, Transportation and the Social Security Administration. Also, the reference to the Association for Public Health Statistics and Information Systems (APHSIS) should be changed to "State vital statistics offices." We would be interested in having input from the States but it does not seem appropriate to name an association in legislation.

Regulations prescribing this format would take longer to complete than the provision allows for. A minimum of two years would be appropriate.

Although it would be feasible for the Department to develop a standard form for copies of birth certificates, this would place the Department in the position of mandating something that many citizens are likely to object to. Current copies of birth certificates would be useless if needed for any Federal agency or for acquiring driver's licenses. Eventually, almost everyone in the country would have to undergo the inconvenience and cost of replacing the copy of their birth certificate. *when they go down to it*

Moreover, without a major education campaign, individuals would be unlikely to know of this change until they attempted to use a copy of their birth certificate for a passport, social security benefits or driver's license. To be informed at this point that the old copy of their birth certificate would have to be replaced before they could get a passport, etc. would likely generate considerable anger. Some sort of phase-in plan would probably be advisable.

In previous bill reports the Administration opposed more stringent requirements related to State issuance of copies of birth certificates. We do not know whether the modifications to those requirements as reflected in this amendment would make it acceptable to the Administration.

Sec. 116(a)(1)(B)(ii) requires that the certificate be resistant to being used by imposters. This is virtually impossible without requiring a fingerprint or some form of biometric identification. This phrase should be deleted.

Sec. 116(a)(2)(B) refers to the possibility that SSA would make known death information to a State or local agency. This does not occur now and it is unclear how this would occur. *Has been taken care of. actual knowledge*

Sec. 116(a)(3) would require the Secretary to establish a fund, administered by NCHS, to

provide grants to States to encourage them to develop the capacity to match birth and death records. Appropriations would be authorized for this purpose. This could be done but substantial funding would be required to establish the system and fund the States to match birth and death records for all deaths occurring within the last 45 years.

In fact, most States participate in a voluntary program to match births and deaths under age 45. The program has been underway for about 5 years. This program has not addressed prior deaths, however, and, given resource constraints, is not a priority for States.

Although the amendment would authorize appropriations, it is not clear that these would materialize. It should be clear to the Congress that NCHS does not have the funds to increase payments to States for birth and death records beyond the current level. We cannot assure either the Congress or the States that the inclusion of this language would accomplish anything more than what is already taking place.

Sec. 116(a)(3)(B) specifies criteria for funding the States. If money is actually appropriated for this effort, the criteria for distributing it should be decided in consultation with States and other parts of the Federal Government, such as the Departments of Justice and State, more appropriately involved in funding fraud-related initiatives.

Sec. 116(a)(4) requires HHS to submit a report in one year on ways to reduce the fraudulent use of birth certificates. Again, this effort should involve consultation with States, the Departments of State, Justice and Transportation as well as SSA. Two years - not one - should be provided for completion of the report. And, funding of approximately \$250,000. would be required.

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why do
or photo

Sec. 116(a)(6) makes the provision effective on October 1, 1997. This time frame is too short; we suggest two years after enactment.

Sec. 116(a)(1)(A) - line 5 - should read, "issued by a State or local authorized custodian of record and is in..."

Sec. 116 (a)(1) and/or Sec. 116(a)(5) should include a provision for American citizens born abroad to get copies of their birth certificate in the new format.

(exampled)

Sec. 116(a)(5) - line 2 - should read, "certificate of a person born in the United States."

Amendment to S. 1394

Section 116(a)

To require a report on modifications to identification-related documents

Strike page IA-19 line 22 through page IA-21 line 14 and substitute the following:

"(a) REPORT REQUIRED - The Commissioner of Social Security, in consultation with the Secretary of Health and Human Services, the Attorney General, and State and local government officials, shall report to Congress no later than 2 years from the date of enactment of this Act on the feasibility and effectiveness of potential modifications to identification-related documents and the cost impacts on Federal programs, states and localities. Such report shall include analysis of the following:

"(1) requiring that all birth certificates or copies of birth certificates issued by any State or local agency be issued in a standard form, and include a social security number and security features designed to make the certificates resistant to tampering and counterfeiting and to being used by impostors;

"(2) prohibiting Federal, State or local government agencies from accepting for evidentiary purposes a birth certificate or copy of a birth certificate other than in the prescribed form;

"(3) prohibiting the issuance of any copy of a birth certificate unless the issuer has ascertained that the person named on the certificate is not dead;

"(4) requiring that national birth and death registries be established;

"(5) prohibiting any Federal, State or local government agency from accepting a birth certificate or copy of a birth certificate for any evidentiary purpose unless the agency has verified the certificate with the issuer or with a national birth registry and verified that the person named on the certificate is not dead;

~~**"(6)** requiring that all individuals have a fingerprint or other biometric data imprinted on their birth certificates or copies of their birth certificates; and~~

"(7) the impact, as determined by the Secretary of Health and Human Services, on the quality, usefulness and timeliness of health and social service information obtained through the national vital statistics system; and

"(8) such other issues that the Commissioner of Social Security determines to be relevant."

SIMPSON AMENDMENT (I-7) TO REVISE BIRTH CERTIFICATE AND DRIVER'S LICENSE PROVISION

(1) Sec. 116(a) is amended to read as follows:

“(a)(1)(A) No Federal agency, including but not limited to the Social Security Administration and the Department of State, and no State agency that issues driver's licenses or identification documents, may accept for any official purpose a copy of a U.S. birth certificate, as defined in paragraph (5), unless it is issued by a State or local government registrar and it conforms to standards described in subparagraph (B).

“(B) The standards described in this subparagraph are those set forth in regulations promulgated by the Secretary of Health and Human Services, after consultation with the Association for Public Health Statistics and Information Systems (APHSIS), and shall include but not be limited to--

“(i) certification by the issuing agency, and

“(ii) use of safety paper, a seal of the issuing agency, and other features designed to make the certificate resistant to tampering, to counterfeiting, and to being used by imposters.

“(2) (A) If one or more of the conditions described in subparagraph (B) is present, no State or local government agency may issue an official copy of a U.S. birth certificate pertaining to an individual unless the copy prominently notes that such individual is deceased.

“(B) The conditions described in this subparagraph include (i) the presence on the original birth certificate of a notation that the individual is deceased, or (ii) actual knowledge by the issuing agency that the individual is deceased obtained through information provided by the Social Security Administration, by an interstate system of birth-death matching, or otherwise.

“(3)(A)(i) The Secretary of Health and Human Services shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States to encourage them to develop the capability to match birth and death records, within each State and among the States, focusing first on persons who were born after 1950, and to note the fact of death on the birth certificates of deceased persons

“(ii) Such grants shall be provided in proportion to population and in an amount needed to provide a substantial incentive for the States to

develop such capability.

“(B) The Secretary of Health and Human Services shall establish a fund, administered through the National Center for Health Statistics, to provide grants to the States for a project in each of 5 States to demonstrate the feasibility of a system by which each such State’s office of vital statistics would be provided, within 24 hours, sufficient information to establish the fact of death of every individual dying in such State.

“(C) There are authorized to be appropriated to the Department of Health and Human Services such amounts as may be necessary to provide the grants described in subparagraph (A) or (B).

“(4) Not later than one year after the enactment of this Act, the Commissioner of the Social Security Administration shall submit a report to Congress on ways to reduce the fraudulent obtaining and the fraudulent use of birth certificates (including use to obtain a Social Security account number or a State or Federal document related to identification or immigration).

“(5) As used in this section, the term ‘birth certificate’ means a document certifying that a particular person has been born in the United States.

“(6) This subsection shall take effect on October 1, 1997.”.

(2) Sec. 116(b) is amended--

(a) in paragraph (1), by striking the language after “number”; and

(b) in paragraph (3), by striking the language after “imposters”.

people would have to
go back to the
state to get them

Foreign

Hatch	Abraham Strike verification	Pilot Kennedy	Simpson Birth Certificate	Abraham Split
Thurmond	Y	Y	N	Y
Simpson	Y	Y	Y	N
Grassley	Y	Y	Y	N
Specter	~~Y~~ N			Y
Brown	Y	Y	Y	N
Thompson	N		N	Y
Kyl	Y	Y	Y	N
DeWine	N		N	Y
Abraham	N		N	Y
Biden	Y			Y
Kennedy	Y		Y	Y
Leahy			N	Y
Heflin			Y	N
Simon	Y	Y	Y	Y
Kohl	Y	Y	Y	Y
Feinstein	Y		Y	N
Feingold	N		N	Y

#-9

11-6

9-7 12-6

- mark up next week (Thu + Thurs).
- Prepare fax sheet of all Judging contest stuff for me

AMENDMENTS TO SECTION 832 - UNIFORM VITAL STATISTICS

Additional Year to Begin Program

Strike "2" and insert "3" .

Participation by Commissioner of Social Security

Insert the following at the appropriate place "with the Commissioner of Social Security" after "Services".

Registration Area Smaller than a State

Insert the following:

(d) REGISTRATION AREA SMALLER THAN A STATE.--For purposes of subsection (a), the term "State" includes an area within a State for which there is maintained a separate registration and certification system of births and deaths.

Additional Half Year to Issue Report

Strike "180 days" and insert "one year".

Disclosure of Information in Death Certificates

After the matter inserted by the second preceding amendment, above), insert the following:

(e) DISCLOSURE BY COMMISSIONER OF SOCIAL SECURITY OF INFORMATION IN DEATH CERTIFICATES.--Section 205(r)(6) of the Social Security Act (42 U.S.C. 405(r)(6)) is amended by striking "purpose described in this subsection" and inserting "purposes described in this subsection or section 812 of the Immigration in the National Interest Act of 1995".



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Office of the General Counsel
Legislation Division
Washington DC 20201

January 18, 1996

NOTE TO IRENE BUENO (L)

Attached, as you requested, are draft amendments to section 812 of H.R. 2202 (the section of the House immigration bill concerned with a pilot program to match birth and death records). I understand you may provide this as technical assistance to the Justice Department or congressional staff.

A handwritten signature in cursive script, reading "Paul M. Spiegel", is positioned above the typed name.

Paul M. Spiegel
690-7773

cc: ANNA BOYD (ES)
CHARLOTTE BRISTOW (ACF)
SUE CLAIN (HCFA)
FRANCIE de PEYSTER (CDC)
JOHN FANNING (P)
DENNIS HAYASHI (OCR)
NAN HUNTER (GC-IO)
BOB KNOUSS (OASH)
GENE MATTHEWS (GC-PH)
DAVID NIELSEN (P)
JIM WEBB (MB)

PROPOSED AMENDMENTS TO SECTION 812 OF H.R. 2202
(as introduced, except as otherwise specifically stated)

Additional Year to Begin Program

Page 354, line 17 (as revised by Mr. Gallegly's amendment),
strike "2" and insert "3".

Participation by Commissioner of Social Security

Page 354, line 15, insert "and the Commissioner of Social
Security" after "Services".

Page 355, line 1, insert ", the Commissioner," after "Secretary".

Registration Area Smaller than a State

Page 355, after line 16, insert the following:

(d) REGISTRATION AREA SMALLER THAN A STATE.--For purposes of
subsection (a), the term "State" includes an area within a State
for which there is maintained a separate registration and
certification system of births and deaths.

Additional Half Year to Issue Report

Page 355, line 8, strike "180 days" and insert "one year".

Disclosure of Information in Death Certificates

Page 355, after line 16 (and after the matter inserted by the
second preceding amendment, above), insert the following:

(e) DISCLOSURE BY COMMISSIONER OF SOCIAL SECURITY OF
INFORMATION IN DEATH CERTIFICATES.--Section 205(r)(6) of the
Social Security Act (42 U.S.C. 405(r)(6)) is amended by striking
"purpose described in this subsection" and inserting "purposes
described in this subsection or section 812 of the Immigration in
the National Interest Act of 1995".

1 (2) by adding at the end of subsection (c) the
2 following new paragraph:

3 “(3) FOR REPORT ON REDUCING BIRTH CER-
4 TIFICATE FRAUD.—In the report described in sub-
5 section (b)(3), the Commission shall consider and
6 analyze the feasibility of—

7 “(A) establishing national standards for
8 counterfeit-resistant birth certificates, and

9 “(B) limiting the issuance of official copies
10 of a birth certificate of an individual to anyone
11 other than the individual or others acting on
12 behalf of the individual.”.

13 **SEC. 812. UNIFORM VITAL STATISTICS.**

14 (a) PILOT PROGRAM.—The Secretary of Health and
15 Human Services shall consult with the State agency re-
16 sponsible for registration and certification of births and
17 deaths and, within 3 years of the date of enactment of
18 this Act, shall establish a pilot program for 3 of the 5
19 States with the largest number of undocumented aliens
20 of an electronic network linking the vital statistics records
21 of such States. The network shall provide, where practical,
22 for the matching of deaths with births and shall enable
23 the confirmation of births and deaths of citizens of such
24 States, or of aliens within such States, by any Federal
25 or State agency or official in the performance of official

1 duties. The Secretary and participating State agencies
2 shall institute measures to achieve uniform and accurate
3 reporting of vital statistics into the pilot program network,
4 to protect the integrity of the registration and certification
5 process, and to prevent fraud against the Government and
6 other persons through the use of false birth or death cer-
7 tificates.

8 (b) REPORT.—Not later than 180 days after the es-
9 tablishment of the pilot program under subsection (a), the
10 Secretary shall issue a written report to Congress with rec-
11 ommendations on how the pilot program could effectively
12 be instituted as a national network for the United States.

13 (c) AUTHORIZATION OF APPROPRIATIONS.—There
14 are authorized to be appropriated for fiscal year 1996 and
15 for subsequent fiscal years such sums as may be necessary
16 to carry out this section.

17 **SEC. 813. COMMUNICATION BETWEEN STATE AND LOCAL**
18 **GOVERNMENT AGENCIES, AND THE IMMIGRA-**
19 **TION AND NATURALIZATION SERVICE.**

20 Notwithstanding any other provision of Federal,
21 State, or local law, no State or local government entity
22 shall prohibit, or in any way restrict, any government en-
23 tity or any official within its jurisdiction from sending to
24 or receiving from the Immigration and Naturalization

(SSA)

**PROPOSED AMENDMENTS TO SECTION 512 OF H.R. 2202
(as introduced, except as otherwise specifically stated)**

Additional Year to Begin Program

Page 354, line 17 (as revised by Mr. Gallegly's amendment),
strike "2" and insert "3".

Participation by Commissioner of Social Security

Page 354, line 15, insert ~~and~~ the Commissioner of Social
Security after [services]. "with".

Page 355, line 1, insert ", the Commissioner," after "Secretary".

delete

Registration Area Smaller than a State

Page 355, after line 16, insert the following:

(d) REGISTRATION AREA SMALLER THAN A STATE.--For purposes of subsection (a), the term "State" includes an area within a State for which there is maintained a separate registration and certification system of births and deaths.

Additional Half Year to Issue Report

Page 355, line 8, strike "180 days" and insert "one year".

Disclosure of Information in Death Certificates

Page 355, after line 16 (and after the matter inserted by the second preceding amendment, above), insert the following:

(e) DISCLOSURE BY COMMISSIONER OF SOCIAL SECURITY OF INFORMATION IN DEATH CERTIFICATES.--Section 205(r)(6) of the Social Security Act (42 U.S.C. 405(r)(6)) is amended by striking "purpose described in this subsection" and inserting "purpose described in this subsection or section 512 of the Immigration in the National Interest Act of 1995".

Comments on Simpson Amendment

Sec. 116(a)(1) would require Federal agencies and State agencies issuing driver's licenses and identification documents to accept only copies of birth certificates issued in a standard form as required in regulations issued by the Secretary of HHS. The provision would be effective October 1, 1997.

Specifying a standard form for state issuance of copies of birth certificates including security features could be done. HHS already specifies a recommended standard certificate for collection of birth information, the elements of which are updated periodically in a joint Federal/State effort.

Because of their interest in this issue, agencies in addition to HHS should be involved in this process. The language should specify consultation by HHS with the Departments of State, Justice, Transportation and the Social Security Administration. Also, the reference to the Association for Public Health Statistics and Information Systems (APHISIS) should be changed to "State vital statistics offices." We would be interested in having input from the States but it does not seem appropriate to name an association in legislation.

Regulations prescribing this format would take longer to complete than the provision allows for. A minimum of two years would be appropriate.

Although it would be feasible for the Department to develop a standard form for copies of birth certificates, this would place the Department in the position of mandating something that many citizens are likely to object to. Current copies of birth certificates would be useless if needed for any Federal agency or for acquiring driver's licenses. Eventually, almost everyone in the country would have to undergo the inconvenience and cost of replacing the copy of their birth certificate.

Moreover, without a major education campaign, individuals would be unlikely to know of this change until they attempted to use a copy of their birth certificate for a passport, social security benefits or driver's license. To be informed at this point that the old copy of their birth certificate would have to be replaced before they could get a passport, etc. would likely generate considerable anger. Some sort of phase-in plan would probably be advisable.

In previous bill reports the Administration opposed more stringent requirements related to State issuance of copies of birth certificates. We do not know whether the modifications to those requirements as reflected in this amendment would make it acceptable to the Administration.

Sec. 116(a)(1)(B)(ii) requires that the certificate be resistant to being used by imposters. This is virtually impossible without requiring a fingerprint or some form of biometric identification. This phrase should be deleted.

Sec. 116(a)(2)(B) refers to the possibility that SSA would make known death information to a State or local agency. This does not occur now and it is unclear why this provision is included.

Sec. 116(a)(3) would require the Secretary to establish a fund, administered by NCHS, to provide grants to States to encourage them to develop the capacity to match birth and death records. Appropriations would be authorized for this purpose. This could be done but substantial funding would be required to establish the system and fund the States to match birth and death records for all deaths occurring within the last 45 years.

In fact, most States participate in a voluntary program to match births and deaths under age 45. The program has been underway for about 5 years. This program has not addressed prior deaths, however, and, given resource constraints, is not a priority for States.

CA FL?

Cost to individuals: now about \$7/ for birth cert. assume \$10 for new certificate then cost to public would be hundreds of millions of dollars per year. SSA estimates \$10 million people per year would need new certificates. 10 million people x \$10 = \$100 million for SSA alone.

Individual have to go back to where they were born to get new certificate w/ security features?

new certificate then cost to public would be hundreds of millions of dollars per year. SSA estimates \$10 million people per year would need new certificates. 10 million people x \$10 = \$100 million for SSA alone.

Although the amendment would authorize appropriations, it is not clear that these would materialize. It should be clear to the Congress that NCHS does not have the funds to increase payments to States for birth and death records beyond the current level. We cannot assure either the Congress or the States that the inclusion of this language would accomplish anything more than what is already taking place.

Sec. 116(a)(3)(B) specifies criteria for funding the States. If money is actually appropriated for this effort, the criteria for distributing it should be decided in consultation with States and other parts of the Federal Government, such as the Departments of Justice and State, more appropriately involved in funding fraud-related initiatives.

Sec. 116(a)(4) requires HHS to submit a report in one year on ways to reduce the fraudulent use of birth certificates. Again, this effort should involve consultation with States, the Departments of State, Justice and Transportation as well as SSA. Two years - not one - should be provided for completion of the report. And, funding of approximately \$250,000. would be required.

Sec. 116(a)(6) makes the provision effective on October 1, 1997. This time frame is too short; we suggest two years after enactment.

Technical Comments:

Sec. 116(a)(1)(A) - line 5 - should read, "issued by a State or local authorized custodian of record and is in..."

Sec. 116 (a)(1) and/or Sec. 116(a)(5) should include a provision for American citizens born abroad to get copies of their birth certificate in the new format.

Sec. 116(a)(5) - line 2 - should read, "certificate of a person born in the United States."

Comments on SSA Talking Points

Section 116 generally refers to copies of birth certificates rather than to actual birth certificates. Because the bill does not consistently refer to copies, however, it should be noted that the actual birth certificate as maintained by states and the certified copies that states issue upon request are not the same thing. As used in vital statistics parlance, "birth certificate" refers to the document that the state produces and maintains (in paper or electronic form) on each birth in that state. This document includes more information than the "certified copy," which refers to the document provided to a person for proof of age and citizenship.

Comments on "Implications"

Bullet #2 - Individuals have certified copies of their birth certificates, not the actual birth certificate. Putting fingerprints or other biometric data on copies of birth certificates would do little to deter fraud because there can be more than one copy of a birth certificate. Placing fingerprints on the actual birth certificate (although that is not what the bill implies) would be even more complicated than placing it on a copy. States maintain birth certificates and are increasingly moving from paper to automated birth registration systems. Some states have already converted totally to electronic format. It is unclear how fingerprints could be incorporated onto electronic or microfilm files.

Bullet #4 - Replace first sentence with: Tens of millions of individuals each year use certified copies of birth certificates for proof of age and citizenship as well as general identification.

Add the following at the end: Moreover, the bill does not define "evidentiary purpose." For example, would this apply to children entering school and every border crossing? Can we really expect any government entity which might need a copy of a birth certificate for confirmation of age, for example, to verify the copy of the certificate itself and then to verify with SSA that the certificate does not pertain to a deceased person? This would impose a tremendous workload on SSA and states and would require a huge database that could be accessed promptly and easily.

Bullet #5 - Insert "or state" after county in the first sentence.

Add the following at the end: Also, because of the inconvenience and costs it would entail, law-abiding citizens would likely object to replacing current copies of their birth certificates with copies issued in the new standard form. Over 10 million copies of birth certificates are issued each year already. This would impose a considerable workload on SSA and the states, some of which already face backlogs in issuing certificates, and could generate public criticism if delays were severe.

Bullet #6 - NCHS does not understand the statement, "Current state death data is only about 94 percent accurate." We feel data provided to NCHS by states on the enumeration and fact of death are very accurate and are curious about this reference to 94 percent. If this refers to data as provided to SSA, clarify to say so.

Bullet #8 - How does this comment fit in with the requirement for security features on the copy of the birth certificate?

Bullet #9 - Add the following at the end: At the same time, the provisions do not address the fact that some states have laws protecting the confidentiality of birth and death data.

Additional point:

This provision dramatically changes the focus of the vital registration process. Traditionally, the vital registration



**U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES
200 INDEPENDENCE AVE., SW
WASHINGTON, D.C. 20201**

PHONE: (202) 690-6786

FAX: (202) 690-6351

**OFFICE OF THE ASSISTANT SECRETARY FOR LEGISLATION
CONGRESSIONAL LIAISON OFFICE
ROOM 406G HUMPHREY BUILDING**

TO: Patty First

FROM: Irene B. Bueno

DATE: 3/11/96

FAX NO: 224-5128

**TOTAL PAGES
INCLUDING COVER):** 4

As we discussed, attached is Administration's proposed amendment to section 116 amendment to the Senate immigration bill and HHS comments to the SSA talking points on section 116.

Please let me know if you have any questions 690-6786.

Thank you.

114(2)(3) = NCHS ^{414g} fund study - possible but costly

Comments on Simpson Amendment

Sec. 116(a)(1) would require Federal agencies and State agencies issuing driver's licenses and identification documents to accept only copies of birth certificates issued in a standard form as required in regulations issued by the Secretary of HHS. The provision would be effective October 1, 1997.

Specifying a standard form for state issuance of copies of birth certificates including security features could be done. HHS already specifies a recommended standard certificate for collection of birth information, the elements of which are updated periodically in a joint Federal/State effort.

Because of their interest in this issue, agencies in addition to HHS should be involved in this process. The language should specify consultation by HHS with the Departments of State, Justice, Transportation and the Social Security Administration. Also, the reference to the Association for Public Health Statistics and Information Systems (APHSIS) should be changed to "State vital statistics offices." We would be interested in input from the States but it does not seem appropriate to name an association in legislation.

Regulations prescribing this format would take longer to complete than the provision allows for. A minimum of two years would be appropriate.

Although it would be feasible for the Department to develop a standard form for copies of birth certificates, this would place the Department in the position of mandating something that many citizens are likely to object to. Current copies of birth certificates would be useless if needed for any Federal agency or for acquiring driver's licenses. Eventually, almost everyone in the country would have to undergo the inconvenience and cost of replacing the copy of their birth certificate.

Moreover, without a major education campaign, individuals would be unlikely to know of this change until they attempted to use a copy of their birth certificate for a passport, social security benefits or driver's license. To be informed at this point that the old copy of their birth certificate would have to be replaced before they could get a passport, etc. would likely generate considerable anger. Some sort of phase-in plan would probably be advisable.

In previous bill reports the Administration opposed more stringent requirements related to State issuance of copies of birth certificates. We do not know whether the modifications to those requirements as reflected in this amendment would make it acceptable to the Administration.

Sec. 116(a)(1)(B)(ii) requires that the certificate be resistant to being used by imposters. This is virtually impossible without requiring a fingerprint or some form of biometric identification. This phrase should be deleted.

Sec. 116(a)(2)(B) refers to the possibility that SSA would make known death information to a State or local agency. This does not occur now and it is unclear why this provision is included.

Sec. 116(a)(3) would require the Secretary to establish a fund, administered by NCHS, to provide grants to States to encourage them to develop the capacity to match birth and death records. Appropriations would be authorized for this purpose. This could be done but substantial funding would be required to establish the system fund the States to match birth and death records for all deaths occurring within the last 45 years.

fact, most States participate in a voluntary program to match births and deaths under age 45. The program been underway for about 5 years. This program has not addressed prior deaths, however, and, given resource constraints, is not a priority for States.

CA FL?

Although the amendment would authorize appropriations, it is not clear that these would materialize. It should be clear to the Congress that NCHS does not have the funds to increase payments to States for birth and death records beyond the current level. We cannot assure either the Congress or the States that the inclusion of this language would accomplish anything more than what is already taking place.

Sec. 116(a)(3)(B) specifies criteria for funding the States. If money is actually appropriated for this effort, the criteria for distributing it should be decided in consultation with States and other parts of the Federal Government, such as the Departments of Justice and State, more appropriately involved in funding fraud-related initiatives.

Sec. 116(a)(4) requires HHS to submit a report in one year on ways to reduce the fraudulent use of birth certificates. Again, this effort should involve consultation with States, the Departments of State, Justice and Transportation as well as SSA. Two years - not one - should be provided for completion of the report. And, funding of approximately \$250,000. would be required.

Sec. 116(a)(6) makes the provision effective on October 1, 1997. This time frame is too short; we suggest two years after enactment.

Technical Comments:

Sec. 116(a)(1)(A) - line 5 - should read, "issued by a State or local authorized custodian of record and is in..."

Sec. 116 (a)(1) and/or Sec. 116(a)(5) should include a provision for American citizens born abroad to get copies of their birth certificate in the new format.

Sec. 116(a)(5) - line 2 - should read, "certificate of a person born in the United States."

process in the United States has maintained a careful balance between its legal purposes and public health and statistical needs. This provision would focus the vital registration process more specifically on legal needs. While both needs could be served, it is hard to imagine that states with limited resources could continue to maintain current levels of timeliness and quality regarding vital statistics if they are forced to adopt a major new responsibility.

S. 1394
Section 116(a)
Improvements in identification-related documents

Summary

- o *The bill as reported* by the subcommittee presents myriad operational and programmatic concerns. It has implications for the budgets of federal, state and local governments; implications for how those governments operate; and implications for privacy, security and fraud.

The bill would:

- o Require state and local governments to issue birth certificates in a form prescribed by the federal government and include Social Security numbers;
- o Prohibit federal, state and local governments from accepting a birth certificate other than in the prescribed form and only after verifying the certificate with the issuing authority or with a national birth registry that the Social Security Administration (SSA) may establish;
- o Require state and local governments, before issuing a copy of a birth certificate, to check with SSA whether that person has died;
- o Require a copy of all death certificates to be sent to SSA;
- o Require SSA to put a fingerprint or other biometric data on birth certificates before a person reaches 16.

Implications

- o The bill represents a tremendous unfunded mandate on state and local governments that would have to meet federal requirements in the issuance and use of birth certificates.
- o Approximately 4.5 million people turn 16 each year. These individuals would have to present themselves at Social Security offices with their birth certificates, prove who they are, be fingerprinted and have the fingerprint placed on the birth certificate. SSA does not have the infrastructure or resources necessary to put fingerprints on the birth certificates of everyone turning 16 each year.
- o In order to be certain that the birth certificates with fingerprints were not altered after being issued, SSA would have to retain copies of everyone's fingerprints.

- o Tens of millions of individuals each year use birth certificates for identification. The bill requires that all levels of government accept only these newly configured birth certificates for any evidentiary purpose. At Social Security alone, 16 million people a year apply for replacement Social Security cards. Every one of these would have to get a new certificate issued in the required form. Their present birth certificates would be useless for identification.
- o To get a copy of your birth certificate, the city or county would have to check with SSA to see whether you had died before issuing the certificate. You would then have to present yourself to a Social Security office to have your fingerprint placed on the certificate. Only then would the certificate be valid.
- o SSA is not an official custodian of death data and does not have comprehensive death data. SSA gets much of its death data from private sources, such as funeral directors, on a voluntary basis. Current state death data is only about 94 percent accurate.
- o SSA estimates that it is missing death data for approximately 50 million individuals since 1937 who died before receiving SSNs. In order for the system in the bill to work, these individuals would have to be identified, given SSNs posthumously and entered into SSA's database.
- o The bill could actually facilitate fraud by giving wide distribution to these newly configured birth certificates containing verified Social Security numbers and other identifying information. These documents would be presented for a variety of purposes and there is a risk that copies of these documents would be made and that it would be easier than now for someone to assume another's identity.
- o There is no requirement that states safeguard the confidentiality of the Social Security numbers and fingerprints they will receive. This could cause serious privacy problems.
- o The bill would give SSA a major new, and perhaps inappropriate, mission -- keeping track of births, deaths and fingerprints of everyone in the United States, not for any purpose related to Social Security benefits, but solely to establish people's identities.

2/23

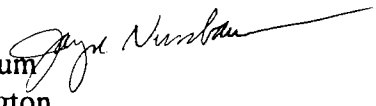
Irene,

Hope this is not
too late. I sent this
to you as an attachment
on e-mail (oops - I will
send again in S.2 WP)
Check your 2nd e-mail.

Jay
Nussbaum

February 23, 1996

To: Irene Bueno
ASL

From: Jayne Nussbaum 
CDC/Washington

Subject: S. 269 - Immigration reform bill

As we discussed, CDC and NCHS staff feel strongly that HHS should have a co-equal role with SSA in the study and report proposed in the SSA amendment to replace Section 116. See our specific comments and rationale below.

SSA has proposed an amendment to replace Section 116 of Senator Simpson's immigration bill (S. 269/S. 1394). This amendment would require the Commissioner of SSA, in consultation with the Secretary of HHS, the Attorney General and State and local government officials, to study certain issues related to improving identification-related documents. The specific issues to be addressed relate to birth and death certificates and are drawn from the bill as approved by the Immigration Subcommittee.

In commenting on this amendment, HHS asked to be given a co-equal role with SSA in the study and report. SSA did not accept this comment.

A co-equal role is important to HHS. Within HHS, CDC's National Center for Health Statistics (NCHS) is the Federal agency responsible for the national vital statistics system. This is a statutory responsibility (Sec. 306 of the PHS Act). By law NCHS obtains birth and death data from the states for inclusion in the national system. NCHS collaborates with the states in defining the content of the birth and death certificates and sets standards to ensure that states provide data in a uniform manner. The quality and timeliness of national birth and death data is dependent on a cooperative national/state system as has been devised.

The issues that would be addressed in SSA's proposed study relate directly to the national vital statistics system; the study could result in recommendations for changes to this system. If changes to this system are under discussion, it is reasonable that those responsible for it have a primary role. Given that the responsibility for the national vital statistics system resides within HHS, we feel a co-equal role in the study and the resulting report is appropriate and necessary.

CDC Proposed Change to SSA Amendment (2-28-96)

replace (7) as follows:

(7) the impact, as determined by the Secretary of Health and Human Services, on the quality, usefulness and timeliness of health and social service information obtained through the national vital statistics system; and

(8) such other issues...(as in (7) from SSA draft)

Give to
Paul



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

LEGISLATIVE REFERENCE DIVISION

ECONOMICS, SCIENCE, AND GENERAL GOVERNMENT BRANCH

TO:

Irene Bueno

FROM: INGRID SCHROEDER
phone: (202) 395-3883
FAX: (202) 395-3109

DATE: ~~2/18/96~~ 2/29/96

NUMBER OF PAGES (including this cover sheet): 3

COMMENTS:

- Justice and SSA cmts on HR 2202

Amatt.

- These are the only cmts we received.
- Let me know what you think

Please call (202) 395-3454 to report any difficulties with transmission of this fax.

DOJ Comments on HHS Amendment to Section 812 of H.R. 2202

(1) We should add "subject to appropriation" to this section. Although it is hard to determine the potential cost of this section, the 3 largest states have large populations. This section would be an unfunded mandate.

(2) In light of the SSA and OIRA comments on the privacy concerns of the birth and death registry in the Senate bill, perhaps they should start drafting an amendment providing privacy protections. Since the privacy amendment wouldn't be technical, it should not hold up this HHS technical amendment.

Draft

To: ASMB (Dennis Williams)
ASPE (David Nielsen) - *AK (Hull)*
~~OASH (Don Valdez)~~
OGC, Legislation (~~Andrea Maples~~)
OCR (Dennis Hayashi)
CDC (~~Francey de Peyster~~)
Bob Irwin

From: Irene Bueno, Acting Deputy Assistant Secretary for
Legislation (Congressional Liaison)

Date: October 12, 1995

Subject: BIRTH CERTIFICATE REGISTRY

Attached for your review and comments is a discussion draft of options developed by the Social Security Administration concerning provisions of S. 269, the Immigration Control and Financial Responsibility Act and H.R. 2202, the Immigration in the National Interest Act. The purpose of these provisions is to reduce fraud associated with birth certificates and Social Security cards.

The options are related to section 115(a) of S.269, that would require the standardization of the birth certificates and inclusion of Social Security numbers and other features to make the document fraud proof. I have attached a copy of that provision for your review.

The House bill, H.R. 2202, the Immigration in the National Interest Act, would require the Department of Health and Human Services to establish a pilot project establishing an electronic network linking the vital statistics records of the 3 of the 5 states with largest number of undocumented immigrants. (See attached bill language).

While it is unlikely legislation will pass this year, SSA has asked for the Department's comments on their proposal. Please send your comments to me by LAN or deliver them to Rm. 406G - HHH.

Please let me know if you have any questions.

Thank you.



**Office of Legislation and Congressional Affairs
Social Security Administration
Fax Sheet**

Date:

9/18/95

Pages:

Cover + _____

Fax to:

Irene Buena

Fax number:

640-6351

Phone number:

Fax from:

**Judy L. Chesser, Deputy Commissioner
ODCLCA**

Phone number: (202) 482-7148

Fax number: (202) 482-7153

Please contact Paulette Anderson (202) 482-7148 if transmission is incomplete.

Message:

Irene: Judy asked that
we send this to you for
your comments.

Jack Camilleri

~~Paul~~

Pilot may be ~~rather~~ better

ASMB - Dennis Williams

PHS (Bob + CDC) - ~~with~~ ^{well} ~~for~~ statistics

Option 1:

who pays?

stat mandate?

Pilot as an option =

5/9
4:30

DISCUSSION DRAFT

SENATE BILL 269

Section 115(a) provides that all copies of birth certificates be standardized and issued to include the SSN and security features designed to make them resistant to tampering and counterfeiting or use by impostors. It precludes any government agency (Federal, State or local) from using any birth certificate unless it is issued by a State or local agency. Further, it precludes any State or local agency from issuing an official copy of a birth certificate unless it first verifies with SSA the named individual is not deceased. A copy of every U.S. issued death certificate will be sent to SSA. No government agency can accept a birth certificate unless it first verifies (1) the certificate with the issuing agency or a national birth registry, if one exists and (2) with SSA that the certificate does not pertain to a deceased person. Finally, every person born in the U.S. will have their birth certificate authenticated and a fingerprint or other biometric data added to it by age 16. This last requirement, biometrics, is not discussed here.

The intent of this section is clearly to reduce the use of fraudulent documents to assume false identities for gain, i.e., employment or public funded benefit. As we move toward the requirement linking birth records with death records, a rational linkage to improve the evidentiary value of those records, logistics dictate that a clearinghouse receive, link, control and release birth/death information. The clearinghouse could be a State consortium, SSA, or a private contractor under the direction of a Federal agency.

OPTION 1

- o State Consortium--Although it is possible for SSA to function as a clearinghouse, it would be more appropriate for States to form a consortium for this purpose. The key to successfully implementing the clearinghouse rests with the originator of the source documents. All official birth and death records originate with the States and such a system would require each State to share that information with the consortium. The consortium would insure the birth and death information is shared with all participants and establish a process for accessing the information for verification purposes.

There are a number of data and record issues that recommend the State consortium as the more practical implementation alternative. These are discussed in more detail later, but included among them are:

OPTIONAL FORM NO 10-70

FAX TRANSMITTAL

TO: <i>Sandy Cane</i>	FROM: <i>Fred Graf</i>
DATE: <i>9/2/86</i>	TIME: <i>5:17</i>

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- o State records are more complete. SSA records could be missing more than 50 million death reports (see general discussion.).
- o States may be able to match birth/death records without using the SSN. Individuals who died before 1906 may not have been assigned an SSN (see general discussion.)
- o State death records are more accurate than SSA records. SSA does not routinely verify death reports unless the report pertains to a beneficiary.
- o State birth records are more accurate than SSA records. Before 1978 SSNs were issued based on the allegations of the requestor. Therefore, identifying information in SSA's may not be correct (see general discussion.)

Further, to be accepted by the users, any process must be transparent. That is, it must not add time to the primary reason for the contact. Since the primary contact will be at the State level, to obtain State BVS information, it would seem more efficient for the verification activity to be directed by the States.

For its part, SSA would continue to receive records from the States/consortium (births and deaths) and supply SSNs to the States to update their records. Verification of birth and deaths would flow through the consortium while SSA would continue to supply SSN number verification.

Finally, recognizing the Constitutional concern of the Federal government exercising control over and regulating State birth and death data, this option preserves the historical role of the States as custodians of vital records.

OPTION 2

- o SSA as the Clearinghouse--SSA has considerable experience collecting, matching and distributing vital statistics record data. SSA maintains the numident and the Death Master File, two records that would be an integral part of the clearinghouse established by this legislation. SSA would continue to collect birth certificate numbers (BCN) and SS-S information (proof of identity, birth, place of birth, names of parents) from the States. SSA would assign the SSN, annotate the BCN to its records, and return the information to

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the State to issue the birth certificate and annotate its records. Death reports received with SSNs, regardless of source, would be verified if necessary and annotated to SSA records. The death information would be reported to the State of birth so that the birth record could be annotated. If no SSN is included with the report of death, SSA could attempt to identify the deceased using current systems searches or return the report of death to the sender for further development. A number of these could be handled by the document source; however, SSA field offices would be heavily impacted by the need to resolve discrepancies.

All requests for verification required by this proposal would flow through SSA.

However, SSA data constraints would reduce the effectiveness of this option:

- o From the time SSNs were first issued until IRS required taxpayers to show SSNs of dependents age five and older listed on tax returns (returns due after 01/01/88), individuals generally did not apply for a SSN until they needed one for employment. Consequently, anyone who died before 1988 and did not need a SSN for employment may not have been enumerated. SSA could not perform any verification function for these individuals and believes these records are the sources used by those seeking to establish new identities for fraudulent purposes. The States, the keeper of the records, are the only source of complete birth/death data.
- o In light of the above, and absent a uniform identifier, the accessibility of State records by SSA for these "older" births and deaths is questionable. Since there is no SSN it would be difficult to add them to SSA systems.
- o Death information received from the States is not verified for nonbeneficiaries.
- o Before 1978 SSNs were issued based on allegations of the requestor. SSA does not have proof of identity of these individuals unless a replacement SSN card was issued to them after evidence requirements were implemented.
- o SSA cannot redisclose State death information to other States. This restriction is in section 205(r) of the Social Security Act and also in the

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contracts by which SSA obtains the death information from the States.

Preliminary, "order of magnitude" SSA administrative costs, developed by SSA Office of Budget, project \$2 million for systems design development and testing in each of the first two years. System loadup costs of \$402 million (including \$232 million attributed to discrepancy resolution) in years three and four and \$41 million in annual costs beginning in year five. Total start-up costs would be \$808 million and beginning in year five, ongoing costs of \$41 million for a total five year cost of \$849 million. This estimate represents 30 workyears each in years one and two; 6300 workyears (6000 of which are in direct service positions, to resolve discrepancies) each in years three and four and 260 workyears (95 of which are in direct service positions) beginning in year five. These estimates assume that birth/death information will be retroactive to 1947; and that the State BVSS will be responsible for discrepancy resolution of death records.

NOTE: SSA has always relied on the free flow of information from the public to keep its records as up-to-date and accurate as possible. In return, SSA has promised it would not routinely redisclose information they willingly provide. There is some concern that the public will view this function as outside the scope of SSA's "authority", which could affect SSA's ability to maintain its own records.

OPTION 1

- o Contractor as Clearinghouse--Contract out the matching and information verification requirements of this section. A single federal agency, presumably the Department of Justice, would have responsibility for the process, but the contractor would do the work, including obtaining birth and death data from source agencies. Manipulation and distribution of complete data would also be the responsibility of the contractor. However, the contractor's success would be impacted by many of the same record accuracy and matching problems that would confront SSA.

General Discussion

At the time the Social Security number was devised, the sole purpose of the number was to allow an employer to accurately

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report earnings for an individual. Numbers were issued based solely on allegations of identifying information by the individual seeking the number. In 1971 some applicants were required to provide evidence of identity, a requirement extended to all applicants along with evidence of age and citizenship or alien status in 1978. The Enumeration at Birth (EAB) process was implemented in 1989 and birth certificate numbers were not added to SSA records until EAB. Today, 3 million of the approximately 4 million births are enumerated through the EAB process. All States except one participate. However, because of the evolution of the enumeration process, many number holders do not have proven identifying information on SSA records.

Today, all States but one provide SSA with death information. In 1994, SSA posted 2,279,446 death reports. Only 103,000 of these reports were the result of State reporting. The States actually reported more deaths, but other sources reported earlier. In addition to the State reports, SSA also receives reports of death from family members and funeral directors. These reports are highly accurate, less than one percent error, while State reports of death have an error rate of about five percent (primarily this represents keying errors as the States manually prepare the tapes for transmission to SSA.) Further, SSA does not verify death reports received for nonbeneficiaries.

Currently, SSA maintains approximately 377 million SSN records. Death information has been received on 53 million of those records. Since the current population of the United States is in the range of 270 million, SSA could be missing more than 50 million death reports.

In order for a clearinghouse to be an effective tool for eliminating the use of fraudulent documents, it must contain information on all births and deaths which could possibly be used as the source for fraud. Using current, readily available data from Federal and State agencies to establish the clearinghouse will limit its immediate capability to identify questionable situations. Further, it will probably take many years (perhaps 50) before such a system could be a fully reliable fraud deterrent. To improve the immediate impact of the clearinghouse it becomes necessary to manually collect data from older records. This greatly increases the cost to both the clearinghouse and the source of the documents, and from SSA's perspective it could even mean addressing the question of how to store data for someone who never had an SSN. Some additional issues defining the scope of this problem are noted below.

In summary, while the concept of a centralized birth/death registry is very attractive as a fraud deterrent, it will be very costly to create if it is to be effective in the short term due to the way in which SSA and State record systems were established prior to the use of computer-based records. Without a

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substantial investment of public resources, to overcome the problems of pre-automation of public record systems, the registry would not deter fraud effectively for many years to come. As a long term goal it may be useful as a fraud deterrence and other program related research.

If the Congress insists on a national birth/death registry, the kinds of issues requiring resolution and the amount of public funds needed to achieve the intended goal dictate a limited scale pilot or demonstration should be conducted before mandating national implementation. This will permit testing reliability and usefulness of the data and interfaces between the States, SSA, and users, as well as to quantify the information available and identify additional problems that have yet to surface. A provision similar to section 512 of H.R. 1915 is a viable alternative to fully implementing the clearinghouse as proposed.

To: Irene Bueno@ASL
From: "Hunter, Ed L." <elh1@cdc.gov>
Cc:
Bcc:
Subject: RE: Birth Certificates
Attachment: Headers.822
Date: 5/1/98 11:11 AM

sounds right to me. And, if the designation was at the HHS and DOJ level, rather than CDC and/or INS, it leaves open some option for which sub-part would actually issue a reg once it was ready to go.

Do you know if there a room number yet for the 2:00 meeting?...elh

From: ibueno@os.dhhs.gov
To: elh1@CDC.GOV
Cc: roil@CDC.GOV
Subject: Birth Certificates
Date: Friday, May 01, 1998 9:37AM

I spoke with Leanne this morning and mentioned to her the option of appointing both HHS and DOJ as the designated agencies. I expressed to her own concern however of being designated the agency that promulgates the rule but I think this decision could be worked out later. The important thing is to begin the regulation drafting process. She seemed to agree.

LEt me know if you have any comments, questions, etc.

Thanks.