

The New York Times

FEARS OF NATIONAL ID WITH IMMIGRATION BILL

By Eric Lipton
June 15, 2013

WASHINGTON — Driver's license photographs and biographic information of most Americans would be accessible through an expanded Department of Homeland Security nationwide computer network if the immigration legislation pending before the Senate becomes law.

The proposed expansion is part of an effort to crack down on illegal immigration by requiring all employers to confirm the identity and legal status of any new workers by tapping into a Homeland Security Department system called E-Verify, which is now used voluntarily by about 7 percent of employers in the United States.

But the proposal already faces objections from some civil liberties lawyers and certain members of Congress, who worry about the potential for another sprawling data network that could ultimately be the equivalent of a national ID system.

The questions are being raised while a debate takes place over access to domestic phone records and Internet files of foreigners.

"Over time, this could become a single, national, searchable database of vital biographic information and photographs of nearly every American," said Senator Chris Coons, Democrat of Delaware. "I want to make sure we embed privacy protections in the system, both in how it is built and administered so that data cannot easily be stolen, and also that the information is only used for legitimate purposes."

Homeland Security Department officials consider such fears unwarranted because E-Verify simply reaches out to other existing government computer systems, like Social Security records or passport records, to confirm a person's identity and work eligibility.

"It is not a stand-alone database that collects and stores," said Christopher Bentley, a spokesman at the department's Citizenship and Immigration Services division, which runs E-Verify. "It pings the other databases that are already established for confirmation, and once that process is complete the information disappears."

E-Verify would have to be greatly expanded if the immigration bill is passed, because within four years all employers would have to electronically submit information gathered from new employees, including citizens, to confirm that they are eligible to work in the United States.

Alex Conant, a spokesman for Senator Marco Rubio, Republican of Florida, whose staff helped write the language in the Senate bill, said the E-Verify changes would make it harder for someone who has entered the country illegally to find a job and would accomplish this without creating a national identification card.

"The system we currently have is full of fraud and contributes to illegal immigration," Mr. Conant said. "This proposed system protects individual civil liberties while giving employers the tools to make sure their employees are legal."

To prevent a job applicant from using fraudulent credentials — as often occurs with illegal immigrants — the legislation mandates the expansion of a photo-based confirmation system. It would allow employers to compare a photo on a driver's license or a passport with what should be a replica of that photo maintained by the agency that issued the identification document.

Since late 2010, the Homeland Security Department has had access to the 113 million State Department passport records and photos to help prevent abuse. But the Senate bill would direct the department to expand the photo program by offering grants to states if they allow the department to tap into their driver's license photo records, and also makes it clear that allowing such access would not represent a violation of a federal privacy law.

Currently, only Mississippi allows the department into its motor vehicle database, Mr. Bentley said, and only for biographic information, like name and date of birth, not photographs.

But several civil liberties lawyers and lawmakers have said they were concerned that an expanded E-Verify — if it had access to all 212 million driver's license records in the United States — would soon be tapped by other federal agencies, like the Transportation Security Administration at airport checkpoints or the Federal Bureau of Investigation in a search for suspects.

Just as Social Security numbers became adopted for identification uses never intended, E-Verify, they say, would draw many unexpected uses.

"We are wary of giving the federal government this kind of centralized power over our daily lives," Senator Rand Paul, Republican of Kentucky, wrote in an opinion article in The Washington Times, opposing the plan for expanding the E-Verify system.

The Senate legislation makes it clear that the proposed law should not be interpreted to "permit or allow" any other government agency to use the E-Verify data for any purpose other than employment verification. But it does not explicitly prohibit such a use, as the law governing the census does, critics said.

In fact, privacy guidelines issued by the Homeland Security Department governing E-Verify say it may, on a case-by-case basis, "give law enforcement agencies extracts of information on potential fraud, discrimination or other illegal activities."

Mr. Bentley said this provision was intended to prevent individual cases of wrongdoing, and not to allow broad searches of the data that are linked together by the E-Verify system.

Mr. Conant said Senator Rubio would consider amendments to the legislation to address privacy concerns about the proposals.

"Given the justified concerns that many Americans have with the current administration's overreach," Mr. Conant said in a statement, "we are open to refinements that would further restrict the government's use of this technology, without undermining the ability of employers to ensure undocumented immigrants are not illegally obtaining employment."