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Illegal: Job quest often involves fraud

By **Deborah Bulkeley**
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Life and the border / La vida y la frontera

The Deseret Morning News begins a three-part series today on immigration, legal and illegal. The series explores immigration's impact on the lives of people in both the United States and Mexico, as well as the resulting interdependence of the two nations' economies.

During the past legislative session, Sen. Carlene Walker, R-Cottonwood Heights, brought an issue to her colleagues' attention: It was illegal for the Department of Workforce Services to notify clients who may have had their identities stolen.

In fact, department employees faced up to a year in prison and up to a \$2,500 fine for disclosing that information.

The legislators were startled. When Walker sponsored a bill to decriminalize such notification, it received unanimous support in both the House and Senate.

"They felt frustrated — their hands were tied, because they couldn't help people," Walker says of the department's employees. "Something needed to be done to help them disseminate this information."

Under the new law, the department has sent out notifications to the first 100 department clients whose children may be victims and is notifying new clients whose children show adult incomes.

However, the group of 20,000 or so clients who may have had their identities stolen is "the tip of the iceberg," Walker says. That led her to sponsor a resolution that calls on Congress to pass laws protecting people against identity theft, which also sailed through the state Legislature.

But the issue of identity theft is a federal one, says Richard Hamp, Utah's assistant attorney general who handles identity-theft prosecutions, along with his team of five investigators and a victims advocate.

"It's unfair that the federal government has not done anything to solve this problem and is leaving this problem to the states," Hamp says. "It's a terrific drain on the state."

As many as 9 million Americans' identities are stolen each year, according to an estimate by the Federal Trade Commission.

When a worker's information doesn't match the Social Security Administration's records, that worker's Social Security earnings are sent to an electronic suspense file. By 2004, that file accounted for about \$585 billion in wages from some 264.1 million W-2 forms, says Dorothy Clark, agency spokeswoman.

It's unclear how much of that is due to illegal immigration, she says, because money can end up in the file in other ways, such as if a name change because of a marriage isn't reported to Social Security.

If the information is corrected, the earnings are reported back to the owner's file, says Clark. If not, it remains indefinitely in the suspense file, which has been around since 1937, she says.

While theft by undocumented workers is now perhaps the most visible type of identity theft, getting a job is only one of many motivations for it, says Utah U.S. Attorney Brett Tolman. Tolman's office prosecuted at least 50 identity-theft cases involving 80 defendants from August 2006 to August 2007, and the most common type of case involved bank fraud.

"It is a crime that is rampant," says Tolman. "If you were to survey law enforcement, state and federal, they would indicate that it's a very top priority."

Often, identity theft is tied to drug use or greed, Tolman says. Or it can be rooted in other crimes. He points to Kirk Alan Swearington, who was convicted of child-pornography possession earlier this year, after he attempted to rent an apartment with a false name and a Social Security number that belonged to a 91-year-old man.

There's no record of exactly how many undocumented immigrants have purchased a Social Security number to work. But Hamp says illegal immigration is now responsible for more than 90 percent of the cases that he sees.

"The volume of it is new," Hamp says, adding that the trend dates back to a 1986 federal immigration reform, which mandated that employers keep on record the I-9 employment verification form that includes information such as name and Social Security number.

Hamp says identity theft is victimizing an increasing number of children. The state attorney general's Protect the Children campaign arose when a few victims in a mortgage-fraud investigation turned out to be children. In the first quarter of 2005, the Department of Workforce Services' database showed about 3,500 children 12 and under who appeared to have had their identity stolen.

At a recent interim meeting of the Legislature's Business and Labor Committee, lawmakers expressed frustration at the federal government's inaction on immigration issues, including identity theft.

After that meeting, the Bush administration announced a new policy which had been scheduled to take effect this month, however a U.S. district court issued a temporary restraining order against implementing the policy while it is under litigation. The policy gives employers a specific time line to clear up mismatches between names and Social Security numbers — or else fire employees.

The Utah legislative committee formed a working group to look at whether to require that businesses use a recently revamped federal Internet-based verification program, now called E-Verify.

However, E-Verify has its critics. While it verifies whether a name, Social Security number and birthday are a match, it doesn't have a mechanism to tell whether that information belongs to the person using it.

Swift & Co. participates in the system, and yet 1,282 suspected undocumented workers were arrested this past December at the company's plants, including one in Hyrum.

Still, advocates for the system say it catches a majority of Social Security number thefts, particularly those in which just a number is stolen or randomly generated.

There are steps people can take to protect against traditional identity theft, such as shredding mail with a confetti-cut shredder and not giving a Social Security number to businesses, Hamp says. But he adds there isn't much that can be done to protect against someone randomly picking your number.

A tool that will help is scheduled to take effect Sept. 1, 2008, he says, through a provision that will allow people to sign up for a credit freeze, so that credit activity must be verified.

Rep. Karen Morgan, D-Cottonwood Heights, is participating in the legislative working group and is planning on introducing a bill to create a civil penalty for using a false document to establish legal status. It's similar to a bill Morgan sponsored last year, which failed when its fiscal note of \$500,000 wasn't made a funding priority, she says.

Tolman says identity theft committed by undocumented immigrants is unique because the motive is to find a job, not to steal money.

Hamp says that when it comes to using someone else's Social Security number to work, most people know they've committed a crime.

"They don't know, I don't think, the magnitude of the crime," he says. "Some are extremely surprised at that impact to someone else."

E-mail: dbulkeley@desnews.com

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