



Written by [Warren Mass](#) on February 7, 2017

California State Senate President Says “Half of My Family” Eligible for Deportation

Speaking before the California State Senate Public Safety Committee on January 31, State Senate President Pro Tem Kevin de León (D-Los Angeles), shown, said that “half his family” was in the country illegally, using false documents, and eligible for deportation under President Trump’s new executive order against “sanctuary” jurisdictions. De León’s admission came in the middle of hearings on the bill he introduced last December, SB54 (the California Values Act), which would prohibit state and local agencies from enforcing immigration laws or from working with immigration enforcement agencies. The legislation, if passed, would effectively make California a “sanctuary state.”



Republican Senator Jeff Stone said of SB54: “I think this bill is making it that much more difficult for the federal authorities to get the most dangerous criminals that we want to deport to keep our communities safe.”

During his statement before the committee, de León expressed his opinion that it was acceptable for illegal aliens to use false identification, saying:

I can tell you half of my family would be eligible for deportation under [President Trump’s] executive order, because if they got a false Social Security card, if they got a false identification, if they got a false driver’s license prior to us passing AB60 [allowing illegal aliens to obtain drivers licenses], if they got a false green card, and anyone who has family members, you know, who are undocumented knows that almost entirely everybody has secured some sort of false identification. That’s what you need to survive, to work. They are eligible for massive deportation.

During a February 1 interview on California Public Radio station KPCC’s *Air Talk* with Larry Mantle, de León expressed outrage that President Trump’s executive order would result in those possessing fraudulent documents or committing identity theft to obtain a Social Security number would be deported. Breitbart News published an account of the interview that read, in part:

“Someone simply who received or purchased a [fraudulent] Social Security card down at McArthur Park, or elsewhere in my district would be eligible immediately for mass deportation,” de León said....

“He’s trying to deputize police officers — and with the suspicion of someone being a criminal or having a broken taillight, that they themselves, as a local police officer, could call the ICE agents immediately and have that person deported without even legal due process.”



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Host Larry Mantle asked him: "... First of all, I just — I want to make sure I understand correctly: You don't think purchasing a phony Social Security card and number should be a deportable offense?"

De Léon replied: "I don't think so.... The vast majority of immigrants — hard working immigrants — have done that. I can tell you I have family members specifically who came here as undocumented immigrants, and they did the same thing. That's what you need to do to survive in this economy."

Since de Léon has introduced legislation that would prohibit state and local agencies from enforcing immigration laws, and he not only thinks that those who purchase a phony Social Security card and number should not be deported, but also has family members whom he believes have "secured some sort of false identification," we must once again bring up a crime that we discussed in a [previous article on the subject of sanctuary cities](#). As we wrote:

In most circumstances, even an ordinary citizen, not to mention a city official, can be charged under federal law with "misprision of felony" for failing to inform authorities about the commission of a crime. Therefore, so-called sanctuary city laws create a dilemma for city officials, who must decide which of two conflicting laws they will obey.

The crime of misprision of felony is defined under 18 U.S. Code § 4:

Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both.

To determine if failing to report an illegal alien is misprision of felony, we must first discover if being in the country illegally is a felony.

Under Title 8 Section 1325 of the U.S. Code, "Improper Entry by Alien," any citizen of any country other than the United States who:

- Enters or attempts to enter the United States at any time or place other than as designated by immigration officers; or
- Eludes examination or inspection by immigration officers; or
- Attempts to enter or obtains entry to the United States by a willfully false or misleading representation or the willful concealment of a material fact; has committed a federal crime.

Illegal entry is obviously a crime, but whether it is a misdemeanor or a felony depends on how many times the alien has entered illegally. Violations are punishable by criminal fines and imprisonment for up to six months; however, repeat offenses can bring up to two years in prison. The federal government defines a felony as a crime punishable by death or imprisonment in excess of one year. If punishable by exactly one year or less, it is classified as a misdemeanor.

By this definition, therefore, first-time offenders have committed a misdemeanor but those who repeat the crime of illegal entry are committing a felony. Therefore, someone who fails to report a first-time illegal entrant would not be guilty of misprision of felony, but those failing to report an illegal alien who has repeated the offense would.

Knowing this, a city, or county, or state official who fails to report illegal aliens picked up on other charges would be wise to sort out which category the detainees fall into. If a large percentage of such



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offenders tend to be repeat offenders, then a presumption must be made that a similar percentage of illegals apprehended in any given jurisdiction are also repeat offenders.

Studies have been made indicating how many of those charged with entering the country illegally are repeat offenders. A report published by the Center for Immigration Studies in 2012 noted:

Out of the 188,382 criminal aliens deported in 2011, at least 86,699, or 46 percent, had been deported earlier and had illegally returned to the United States. We know this because 86,699 is the number of criminal alien deportations resulting from “reinstatement of final removal orders” (“reinstatement” for short) for 2011.... The 46 percent may also be understated due to reclassification of criminal deportees. Thus, existing data indicate that a minimum of 46 percent of the 2011 criminal deportees were previously deported and returned to the United States.

More relevant to our question concerning whether or not failure to report an illegal alien is misprision of felony, the CIS report continues:

Moreover, the total number of deportees who were deported by reinstatement was 130,006 for 2011 and yet only 86,699 of the reinstatements were categorized as criminals. This means that 43,307 of the 2011 deportees had been deported previously and were not categorized as criminals. Since illegal reentry to the United States by a deportee is a *felony* under federal law (Title 8 U.S.C. 1326), the 43,307 must have been deported again without being charged with the reentry felony because they were not considered “criminal” deportees in the 2011 data. [Emphasis added.]

The bottom line is: With close to half of all illegal aliens having entered the United States illegally more than once (a felony) there is a 50-50 chance that anyone who fails to report the presence of an individual illegal alien to federal immigration authorities is guilty of misprision of felony. If the local officials have large number of illegal aliens in custody but fail to report any of them, the odds increase to the point that this violation is almost a certainty.

In addition to the crime of reentering the United States illegally more than once, we might also look at the crime of securing a false Social Security card — something that de Léon apparently thinks is no more serious than jaywalking. A review of the government’s “Compilation Of The Social Security Laws” shows that under Sec. 208. [42 U.S.C. 408] “Whoever ... discloses, *uses* or compels the disclosure of the social security number of any person in violation of the laws of the United States; shall be guilty of a felony and upon conviction thereof shall be fined under title 18, United States Code, or imprisoned for not more than five years, or both.” (Emphasis added.)

We have seen no other reports discussing the possible filing of misprision of felony charges against state or local officials who fail to report the felonious violation of our nation’s immigration laws to federal immigration authorities. It is possible that the Trump administration has had such a busy agenda on its plate during its first days in office that it has not even had time to look into this law as a possible tool to obtain cooperation with federal immigration efforts.

If it has not already considered this option, it may want to do so as one way to nip the “sanctuary city” epidemic in the bud.

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