

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 44 Session of 2009

INTRODUCED BY PERRY, METCALFE, CREIGHTON, BAKER, BARRAR,
BELFANTI, BOYD, CLYMER, CUTLER, EVERETT, FAIRCHILD, FLECK,
GEIST, GIBBONS, GOODMAN, GROVE, HARHART, HARRIS, HUTCHINSON,
KAUFFMAN, KORTZ, MARSICO, MICCARELLI, MILLER, MOUL, O'NEILL,
PYLE, RAPP, READSHAW, ROAE, ROCK, ROHRER, SAYLOR, SOLOBAY,
STEVENSON, SWANGER, TRUE AND VULAKOVICH, JANUARY 26, 2009

REFERRED TO COMMITTEE ON HEALTH AND HUMAN SERVICES, JANUARY 26,
2009

AN ACT

1 Requiring verification of the lawful presence in the United
2 States of any natural person 18 years of age or older who has
3 applied for public benefits.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Protection of
8 Public Benefits Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Governmental entity." Any of the following:

14 (1) The Commonwealth.

15 (2) A political subdivision of the Commonwealth.

16 (3) An agency, authority, board or commission of the

Commonwealth or of a political subdivision.

"Unauthorized alien." An alien who does not have the legal right or authorization under Federal law to work in the United States, as defined under section 274A of the Immigration and Nationality Act (66 Stat. 163, 8 U.S.C. § 1324a(h)(3)).

Section 3. Verification.

(a) General rule.--Unless restricted by Federal statute or court decision, a governmental entity shall verify the lawful presence in the United States of a natural person 18 years of age or older who has applied for public benefits.

(b) Nondiscrimination.--This section shall be enforced without regard to race, religion, gender, ethnicity or national origin.

(c) Procedure.--Verification of lawful presence in the United States by a governmental entity may be accomplished as follows:

(1) the applicant must execute an affidavit that the applicant is a United States citizen or legal permanent resident 18 years of age or older; or

(2) the applicant must execute an affidavit that the applicant is a qualified alien or nonimmigrant under the Immigration and Nationality Act (66 Stat. 163, 8 U.S.C. § 1101 et seq.), is 18 years of age or older and is lawfully present in the United States.

(d) Benefit eligibility.--If an applicant has executed an affidavit that the applicant is an alien lawfully present in the United States, eligibility for benefits shall be made through the Systematic Alien Verification for Entitlement program operated by the United States Department of Homeland Security. Until the eligibility verification is made, the affidavit may be

1 presumed to be proof of lawful presence for the purposes of this
2 section.

3 (e) False statements.--A person who knowingly and willfully
4 makes a false, fictitious or fraudulent statement of
5 representation in an affidavit executed under subsection (d) may
6 be subject to prosecution under 18 Pa.C.S. § 4904 (relating to
7 unsworn falsification to authorities).

8 (f) Variations.--A governmental entity may adopt variations
9 to the requirements of this section to improve efficiency or
10 reduce delay in the verification process or to provide for
11 adjudication of unique individual circumstances where the
12 verification procedures in this section would impose unusual
13 hardship on a legal resident of this Commonwealth.

14 (g) Violation.--It shall be unlawful for a governmental
15 entity to provide any public benefit in violation of this
16 section.

17 (h) Notice to Attorney General.--A governmental entity
18 shall, upon determining that an applicant for public benefits is
19 an unauthorized alien, report the name and address of the
20 unauthorized alien to the Attorney General of the Commonwealth.

21 (i) Report.--All errors and significant delays by the
22 Systematic Alien Verification for Entitlement program shall be
23 reported to the United States Department of Homeland Security
24 and to the Attorney General of the Commonwealth, who will
25 monitor the Systematic Alien Verification for Entitlements
26 program and its verification application for errors and
27 significant delays and report yearly on the errors and
28 significant delays to ensure that the application of the
29 Systematic Alien Verification for Entitlement program is not
30 wrongfully denying benefits to legal residents of this

1 Commonwealth.

2 Section 4. Limitation on public benefits.

3 Unless required by Federal statute or court decision, no
4 public moneys shall be expended on and no public benefit shall
5 be provided to an unauthorized alien with the exception of
6 expenditures for any of the following:

7 (1) Emergency medical care.

8 (2) Law enforcement, arrest, prosecution, incarceration,
9 detainment and related expenses.

10 Section 5. Notification to Department of Revenue.

11 (a) General rule.--A governmental entity, upon determining
12 that public moneys have been expended on or public benefits
13 provided to an unauthorized alien shall prepare an invoice
14 listing the cost of those expenditures or benefits. The
15 governmental entity shall transmit this invoice along with any
16 identifying information concerning the unauthorized alien to the
17 Department of Revenue of the Commonwealth.

18 (b) Definition.--As used in this section, the term "public
19 moneys" shall include the cost of arrest, prosecution,
20 incarceration or detainment of an unauthorized alien and any
21 related expenses.

22 Section 6. Request for reimbursement of public moneys.

23 The Department of Revenue shall, upon receipt of an invoice
24 under section 5, attempt to ascertain the total expenditures of
25 public money by all governmental entities to benefit the
26 unauthorized alien during the period the unauthorized alien was
27 within this Commonwealth and in violation of Federal immigration
28 laws. The total expenditures shall be listed on a public
29 benefits statement. The public benefits statement shall be
30 provided to the United States Department of Homeland Security

1 and the United States Department of State for transmission to
2 the country of origin of the unauthorized alien with a request
3 that the country reimburse the Commonwealth for the expenses.
4 Any funds received by the Commonwealth shall be distributed pro
5 rata to the governmental entities that expended public money to
6 benefit the unauthorized alien.

7 Section 7. Private entities expending Commonwealth funds.

8 (a) General rule.--As a condition of a grant, loan or
9 authority to expend Commonwealth moneys, a private entity shall
10 be required to comply with the provisions of this act as if the
11 entity were a governmental entity.

12 (b) Violation.--A private entity which fails to comply with
13 subsection (a) shall be required to repay any grant, loan or
14 other Commonwealth moneys expended on or funding public benefits
15 for an unauthorized alien.

16 (c) Reliance.--A private entity may justifiably rely on the
17 benefits database under section 8 to determine Federal:

18 (1) restrictions regarding verification of lawful
19 presence under section 3; and

20 (2) requirements regarding public benefits under section
21 4.

22 Section 8. Benefits database.

23 (a) General rule.--The Attorney General shall maintain a
24 database, based on applicable Federal statutes and court
25 decisions, which includes information describing Federal:

26 (1) restrictions regarding verification of lawful
27 presence under section 3; and

28 (2) requirements regarding public benefits under section
29 4.

30 (b) Availability.--The database shall be made available to

1 all of the following:

2 (1) A governmental entity.

3 (2) A private entity under section 7.

4 Section 20. Effective date.

5 This act shall take effect July 1, 2010, or immediately,

6 whichever is later.