



# HOUSE COMMITTEE ON APPROPRIATIONS

## FISCAL NOTE

HOUSE BILL NO. 1095

PRINTERS NO. 1357

PRIME SPONSOR: Heffley

### COST / (SAVINGS)

FUND	FY 2017/18	FY 2018/19
Commonwealth Funds *	See "Fiscal Impact"	See "Fiscal Impact"

\* Commonwealth funds include the General Fund, Lottery Fund, Administration Fund, etc.

**SUMMARY:** Establishes the Proof of Citizenship for Receipt of Public Benefits Act. This legislation would take effect in 120 days.

**ANALYSIS:** This legislation requires an individual who applies directly to an agency for state or local public benefits to:

- provide in person, by mail or by electronic means, one of the acceptable forms of identification enumerated in the legislation; and,
- execute an affidavit stating that he or she is a U.S. citizen or that he or she is eligible for state or local benefits under Section 411(a) of the federal Personal Responsibility and Work Opportunity Reconciliation Act (Title 8 U.S. Code § 1621(a)). Agencies are required to maintain the affidavits under applicable records retention schedules.

### Acceptable Forms of Identification:

- A valid driver's license or identification card issued by PennDOT;
- A valid identification card issued by any other agency of the Commonwealth;
- A valid identification card issued by the U.S. Government, a state government or the Canadian Government;
- A valid U.S. passport;
- A document from an agency of the U.S. or a State national guard establishing that the person is a current member of, or a veteran of, the U.S. Armed Forces or National Guard;
- A form of identification as listed in U.S. Attorney General's Order Number 2129-97 - Interim Guidance on Verification of Citizenship, Qualified Alien Status and Eligibility under Title IV of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. These documents include, but are not limited to:
  - Report of birth abroad by a U.S. Citizen
  - Certificate of Birth issued by a foreign service post or certification of report of birth issued by the Department of State
  - Certificate of Naturalization
  - Certificate of Citizenship
  - U.S. Citizen Identification Card

- Northern Mariana Identification Card
- Statement provided by a consular service officer certifying that the individual is a U.S. citizen
- American Indian Card
- Certain religious records of birth
- Certain early school records
- Census record showing name, U.S. citizenship or place of birth
- Adoption finalization papers

The legislation allows a person who does not possess any of the forms of identification listed above to submit, in lieu of identification, an affidavit stating that he or she does not possess a form of identification.

**Exceptions:** The identification and affidavit requirements will not apply to a person:

- under 18 years of age;
- currently receiving Supplemental Security Income or Social Security disability income;
- entitled to or enrolled in Medicare Part A or Part B, or both;
- applying for public benefits on behalf of a person under 18 years of age;
- whose citizenship has been verified pursuant to Section 1902(ee) of the Social Security Act; or,
- who declares by affidavit that, because of domestic violence, he/she does not currently possess any of the acceptable identification documents.

**SAVE Program:** An agency that administers public benefits must verify, through the Systematic Alien Verification of Entitlement (SAVE) program operated by the U.S. Department of Homeland Security or a successor program designated by the Department, that each noncitizen applicant who has executed an affidavit is eligible for public benefits.

Until the verification of eligibility is made, the affidavit is to be presumed to be proof of eligibility for public benefits.

An agency that utilizes SAVE under the provisions of this legislation will be required to report errors and delays to the federal Department of Homeland Security and the state Attorney General. The Attorney General will be required to monitor agency use of SAVE for errors and significant delays in order to ensure that the system is not wrongfully denying benefits.

**Penalty for False Statements:** A person who knowingly and willfully makes a false, fictitious or fraudulent statement on an affidavit submitted under the provisions of this legislation may be subject to prosecution under Title 18 Section 4904 (relating to unsworn falsification to authorities).

**Costs of Providing Benefits to Unauthorized Aliens:** Any agency that finds that public money has been expended to provide public benefits to an alien who is not eligible for public benefits will be required to transmit information regarding that expenditure to the Governor's Office of Administration to be placed on the PennWATCH public internet website. Information regarding any such expenditure will be accessible in accordance with the Right-to-Know Law.

**Access Devices:** The legislation defines “access device” as the PA ACCESS card or electronic benefit transfer card. An agency will be prohibited from issuing an access device to an individual who is not an authorized cardholder. An “authorized cardholder” is an individual to whom an access device has been issued for the purpose of accessing public benefits:

- of which the individual is a recipient,
- on behalf of a minor who is a recipient,
- on behalf of a disabled person who is a recipient; or
- on behalf of a household that is eligible for benefits.

Additionally, the legislation establishes the offense of “possession or use of access device”. A person commits this offense if he/she possesses or uses an access device while not being an authorized cardholder or if he/she possesses or uses an access device that was not issued to him/her. The offense is graded as a felony of the third degree.

**Applicability:** The provisions of the legislation will apply to applications for public benefits and renewal of public benefits filed directly with an agency after the act’s effective date.

- Exception – The act will not apply to applications for public benefits and renewal of public benefits filed directly with an agency if compliance would lead to loss of federal funding or be in conflict with any federal law.

**Definitions:** Under the legislation, an “agency” will include any Commonwealth agency or any political subdivision or municipal or other local authority.

“Public benefits” is defined as follows:

- A grant, contract or loan provided by an agency of the Commonwealth or local government.
- Any welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit or any other similar benefit for which payments or assistance are provided to an individual, household or family eligibility unit by an agency of the Commonwealth or local government.

The term does not include any of the following:

- Benefits listed under Section 411(b) of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996.
- A contract for a nonimmigrant whose visa for entry is related to such employment in the U.S. or to a citizen of a freely associated state, if Section 141 of the applicable compact of free association approved under the Compact of Free Association Act of 1985 or the Joint Resolution to approve the "Compact of Free Association" between the U.S. and the Government of Palau is in effect.
- Benefits for an alien who as a work-authorized nonimmigrant or as an alien lawfully admitted for permanent residence under the Immigration and Nationality Act qualified for such benefits and for whom the U.S. under reciprocal treaty agreements is required to pay benefits.
- Any federal public benefit under Section 401(c) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

- Nutrition programs enumerated in Section 742(b)(2) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996.
- Programs providing assistance in the form of food or food vouchers, including, but not limited to, the Special Supplemental Nutrition Program for Women, Infants and Children.
- Protective services provided under the PA Older Adults Protective Services Act and the PA Adult Protective Services Act.
- Services provided to a victim of a severe form of trafficking in persons as defined under 22 U.S.C. § 7105(b)(1)(C) (relating to protection and assistance for victims of trafficking).
- Unemployment benefits for an alien who has obtained employment authorization from the federal Department of Homeland Security.

**FISCAL IMPACT:** Enactment of this legislation would likely result in no more than \$750,000 in costs spread among several Commonwealth funds. It is assumed that a central policy making entity, such as the Office of General Counsel (OGC), would develop the affidavit and make it available to all Commonwealth agencies. In lieu of the OGC, the Administration could simply copy the electronic affidavit used by the Department of Human Services (DHS), therefore, Commonwealth agencies are not expected to incur significant costs as a result of this legislation. It is presumed that all Commonwealth agencies impacted by this legislation could implement this legislation utilizing existing staff.

Agencies may incur costs to incorporate the identification requirement and affidavit requirement into their respective IT systems and to provide the necessary training on those systems changes. Agencies are not expected to incur costs to maintain affidavits as it is assumed that affidavits would be maintained with the application materials in accordance with existing record retention policies. Aggregate costs for all Commonwealth agencies to implement the identification and affidavit requirements would not likely exceed \$500,000.

Commonwealth agencies will also incur costs to verify affidavits of non-citizens via the Department of Homeland Security's (DHS) SAVE program as the DHS charges approximately \$0.50 per entry. In the event that 500,000 non-citizen applicants apply for public benefits requiring a SAVE program verification or follow up verification, these SAVE entries would cost \$250,000.

This legislation could have a minor fiscal impact on correction facilities as the legislation establishes a felony of the third degree for the illegal possession or use of an access device. These costs are indeterminable at this point.

There is the potential to realize state savings if there is detection/deterrence of illegal residents receiving public benefits as a result of this legislation.

**PREPARED BY:** Tim Rodrigo  
House Appropriations Committee (R)

**DATE:** September 25, 2017

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*