

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1643 Session of
2013

INTRODUCED BY HEFFLEY, METCALFE, MILLARD, OBERLANDER, KRIEGER,
O'NEILL, MARSHALL, SWANGER, TOEPEL, SACCONI, KAUFFMAN,
CUTLER, HESS, KNOWLES, MASSER, BENNINGHOFF, COX, DENLINGER,
GINGRICH, AUMENT, MOUL, GROVE, GILLEN AND SCHLEGEL CULVER,
AUGUST 23, 2013

REFERRED TO COMMITTEE ON HEALTH, AUGUST 23, 2013

AN ACT

1 Requiring identification of lawful presence in the United States
2 as a prerequisite to the receipt of public benefits;
3 prohibiting issuance of access devices to certain persons;
4 and providing for the offense of possession of access device
5 by certain persons.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Short title.

9 This act shall be known and may be cited as the Proof of
10 Citizenship for Receipt of Public Benefits Act.

11 Section 2. Definitions.

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

15 "Access device." The Pennsylvania ACCESS card or electronic
16 benefit transfer card.

17 "Affidavit." An unsworn statement that is made subject to
18 the penalties of 18 Pa.C.S. § 4904 (relating to unsworn

1 falsification to authorities).

2 "Agency." An agency as defined under 2 Pa.C.S. § 101
3 (relating to definitions).

4 "Person." An individual.

5 "Public benefits."

6 (1) Any of the following:

7 (i) A grant, contract or loan provided by an agency
8 of the Commonwealth or local government.

9 (ii) Any welfare, health, disability, public or
10 assisted housing, postsecondary education, food
11 assistance, unemployment benefit or any other similar
12 benefit for which payments or assistance are provided to
13 an individual, household or family eligibility unit by an
14 agency of the Commonwealth or local government.

15 (2) The term does not include any of the following:

16 (i) Benefits listed under section 411(b) of the
17 Personal Responsibility and Work Opportunity
18 Reconciliation Act of 1996 (Public Law 104-193, 8 U.S.C.
19 § 1621(b)).

20 (ii) A contract for a nonimmigrant whose visa for
21 entry is related to such employment in the United States
22 or to a citizen of a freely associated state, if section
23 141 of the applicable compact of free association
24 approved under the Compact of Free Association Act of
25 1985 (Public Law 99-239, 99 Stat. 1770) or the Joint
26 Resolution to approve the "Compact of Free Association"
27 between the United States and the Government of Palau,
28 and for other purposes (Public Law 99-658, 100 Stat.
29 3672) or a successor provision, is in effect.

30 (iii) Benefits for an alien who as a work-authorized

1 nonimmigrant or as an alien lawfully admitted for
2 permanent residence under the Immigration and Nationality
3 Act (66 Stat. 163, 8 U.S.C. § 1101 et seq.) qualified for
4 such benefits and for whom the United States under
5 reciprocal treaty agreements is required to pay benefits,
6 as determined by the Secretary of State, after
7 consultation with the Attorney General of the United
8 States.

9 (iv) Any Federal public benefit under section 401(c)
10 of the Personal Responsibility and Work Opportunity
11 Reconciliation Act of 1996 (Public Law 104-193, 8 U.S.C.
12 § 1611(c)).

13 (v) Nutrition programs enumerated in section
14 742(b)(2) of the Personal Responsibility and Work
15 Opportunity Reconciliation Act of 1996 (Public Law 104-
16 193, 8 U.S.C. § 1615(b)(2)).

17 (vi) Programs providing assistance in the form of
18 food or food vouchers, including, but not limited to, the
19 Special Supplemental Nutrition Program for Women, Infants
20 and Children.

21 (vii) Protective services provided under the act of
22 November 6, 1987 (P.L.381, No.79), known as the Older
23 Adults Protective Services Act, and the act of October 7,
24 2010 (P.L.484, No.70), known as the Adult Protective
25 Services Act.

26 (viii) Services provided to a victim of a severe
27 form of trafficking in persons as defined under 22 U.S.C.
28 § 7105(b)(1)(C) (relating to protection and assistance
29 for victims of trafficking).

30 (ix) Unemployment benefits for an alien who has

1 obtained employment authorization from the Department of
2 Homeland Security.

3 "Unauthorized alien." An alien who is not eligible for any
4 state or local public benefits under section 411(a) of the
5 Personal Responsibility and Work Opportunity Reconciliation Act
6 of 1996 (Public Law 104-193, 8 U.S.C. § 1621(a)).

7 Section 3. Identification and eligibility.

8 (a) Requirements.--A person who applies directly to an
9 agency for public benefits shall provide proof of identification
10 and proof of eligibility in accordance with this section.

11 (b) Proof of identification.--

12 (1) Except as provided in paragraph (2), a person under
13 subsection (a) must provide, in person, by mail or by
14 electronic means, one of the following forms of
15 identification to the agency:

16 (i) A valid driver's license or identification card
17 issued by the Department of Transportation.

18 (ii) A valid identification card issued by any other
19 agency of the Commonwealth.

20 (iii) A valid identification card issued by the
21 United States Government, a state government or the
22 Canadian Government.

23 (iv) A valid United States passport.

24 (v) A document from an agency of the United States
25 or a state National Guard establishing that the person is
26 a current member of or a veteran of the United States
27 Armed Forces or National Guard.

28 (vi) A form of identification as listed in United
29 States Attorney General's Order Number 2129-97 Interim
30 Guidance on Verification of Citizenship, Qualified Alien

1 Status and Eligibility Under Title IV of the Personal
2 Responsibility and Work Opportunity Reconciliation Act of
3 1996, as issued by the Department of Justice at 62 Fed.
4 Reg. 61,344 (Nov. 17, 1997) or a subsequent version of
5 that Attorney General's order.

6 (2) If the person does not possess a form of
7 identification listed in paragraph (1), the person must
8 provide, in person, by mail or by electronic means, an
9 affidavit stating that the person does not possess a form of
10 identification listed in paragraph (1).

11 (c) Proof of eligibility.--To demonstrate eligibility, a
12 person under subsection (a) must provide in person, by mail or
13 by electronic means one of the following to the agency:

14 (1) An affidavit stating that the person is a United
15 States citizen.

16 (2) An affidavit stating that the person is eligible for
17 State or local benefits under section 411(a) of the Personal
18 Responsibility and Work Opportunity Reconciliation Act of
19 1996 (Public Law 104-193, 8 U.S.C. § 1621(a)).

20 (d) Recordkeeping of affidavits.--The agency shall maintain
21 the affidavits required under subsections (b) and (c) in
22 accordance with the applicable records retention schedule.

23 (e) Exceptions.--Subsection (a) shall not apply to:

24 (1) A person under 18 years of age.

25 (2) A person currently receiving Supplemental Security
26 Income or Social Security disability income.

27 (3) A person entitled to or enrolled in Medicare Part A
28 or Part B, or both.

29 (4) A person applying for public benefits on behalf of a
30 person under 18 years of age.

1 (5) A person whose citizenship has been verified
2 pursuant to section 1902(ee) of the Social Security Act (49
3 Stat. 620, 42 U.S.C. § 1396a(ee)).

4 (6) A person who declares by affidavit that, because of
5 domestic violence, the person does not currently possess any
6 of the identification documents listed in subsection (a)(1).
7 The domestic violence shall be verified using state standards
8 developed under section 402(a)(7) of the Personal
9 Responsibility and Work Opportunity Reconciliation Act of
10 1996 (Public Law 104-193, 42 U.S.C. § 602(a)(7)).

11 Section 4. Verification through SAVE program.

12 (a) General rule.--An agency that administers public
13 benefits shall verify, through the Systematic Alien Verification
14 of Entitlement (SAVE) program operated by the Department of
15 Homeland Security or a successor program designated by the
16 Department of Homeland Security, that each noncitizen applicant
17 who has executed an affidavit under section 3(c) is an alien
18 legally present in the United States.

19 (b) Presumption of lawful presence by affidavit.--Until such
20 verification of lawful presence is made, the affidavit executed
21 under section 3(c) may be presumed to be proof of lawful
22 presence for purposes of this act.

23 Section 5. Issuance of access devices to persons who are not
24 lawfully present in the United States prohibited.

25 An agency may not issue an access device to a person who is
26 not lawfully present in the United States as determined by
27 Federal immigration officials.

28 Section 6. Possession or use of access device by persons who
29 are not lawfully present in the United States.

30 (a) Offense defined.--A person commits an offense if the

1 person is not lawfully present in the United States as
2 determined by Federal immigration officials and possesses or
3 uses an access device.

4 (b) Separate offenses.--Each time a person possesses or uses
5 an access device in violation of subsection (a) constitutes a
6 separate offense under this section.

7 (c) Grading.--A person who violates subsection (a) commits a
8 felony of the third degree.

9 Section 7. False statements.

10 A person who knowingly and willfully makes a false,
11 fictitious or fraudulent statement of representation in an
12 affidavit executed under section 3 may be subject to prosecution
13 under 18 Pa.C.S. § 4904 (relating to unsworn falsification to
14 authorities).

15 Section 8. Nondiscrimination.

16 This act shall be enforced without regard to race, religion,
17 gender, ethnicity or national origin.

18 Section 9. Systematic Alien Verification for Entitlements

19 (SAVE) program.

20 (a) Reporting.--If an agency encounters errors and
21 significant delays when using the Systematic Alien Verification
22 for Entitlements (SAVE) program under section 4 the agency shall
23 report the errors and delays to the United States Department of
24 Homeland Security and to the Attorney General.

25 (b) Monitoring.--The Attorney General shall monitor the
26 Systematic Alien Verification for Entitlements (SAVE) program
27 and its verification application for errors and significant
28 delays and report yearly on the errors and significant delays to
29 ensure that the application of the Systematic Alien Verification
30 for Entitlements (SAVE) program is not wrongfully denying

1 benefits to legal residents of this Commonwealth.

2 Section 10. Notification to the Governor's Office of

3 Administration and posting on PennWATCH.

4 (a) General rule.--An agency, upon determining that public
5 money has been expended on or public benefits provided to an
6 unauthorized alien shall prepare an invoice listing the cost of
7 the expenditures or benefits. The agency shall transmit the
8 invoice along with any identifying information concerning the
9 unauthorized alien to the Governor's Office of Administration
10 for inclusion in the publicly accessible Internet website known
11 as PennWATCH.

12 (b) Access.--The Governor's Office of Administration shall
13 provide access to the invoices pursuant to the act of February
14 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

15 (c) Definitions.--As used in this section the term "public
16 money" includes the cost of arrest, prosecution, incarceration
17 or detainment of an unauthorized alien and any related expenses.
18 Section 11. Applicability.

19 (a) General rule.--Except as otherwise provided in
20 subsection (b), this act shall apply to applications for public
21 benefits and renewal of public benefits filed directly with an
22 agency after the effective date of this section.

23 (b) Federal funding and law.--This act shall not apply to
24 applications for public benefits and renewal of public benefits
25 filed directly with an agency if compliance with this act would
26 lead to loss of Federal funding or be in conflict with any
27 Federal law.

28 Section 12. Effective date.

29 This act shall take effect in 120 days.