
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 9 Session of
2015

INTRODUCED BY STEFANO, SCARNATI, FOLMER, WHITE, GORDNER, ARGALL,
WARD, EICHELBERGER, VOGEL, YAW, GREENLEAF, RAFFERTY,
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WOZNIAK AND WAGNER, JANUARY 28, 2015

AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 7, 2016

AN ACT

1 Requiring identification of lawful presence in the United States
2 as a prerequisite to the receipt of public benefits.

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

5 Section 1. Short title.

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

8 Section 2. Definitions.

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

12 "Access device." The Pennsylvania ACCESS card or electronic
13 benefit transfer card.

14 "Affidavit." An unsworn statement that is made subject to
15 the penalties of 18 Pa.C.S. § 4904 (relating to unsworn
16 falsification to authorities).

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

3 "AUTHORIZED CARDHOLDER." AN INDIVIDUAL TO WHOM AN ACCESS <--
4 DEVICE HAS BEEN ISSUED FOR THE PURPOSE OF ACCESSING:

5 (1) PUBLIC BENEFITS OF WHICH THE INDIVIDUAL IS A
6 RECIPIENT;

7 (2) PUBLIC BENEFITS ON BEHALF OF A MINOR WHO IS A
8 RECIPIENT OF PUBLIC BENEFITS;

9 (3) PUBLIC BENEFITS ON BEHALF OF A RECIPIENT OF PUBLIC
10 BENEFITS WHO IS UNABLE TO USE AN ACCESS DEVICE BECAUSE OF A
11 DISABILITY; OR

12 (4) PUBLIC BENEFITS ON BEHALF OF A HOUSEHOLD, SO LONG AS
13 THE INDIVIDUAL IS AN ADULT MEMBER OF THE HOUSEHOLD AND HAS
14 BEEN AUTHORIZED BY A RECIPIENT OF PUBLIC BENEFITS TO ACCESS
15 THE BENEFITS.

16 "Person." An individual.

17 "Public benefits."

18 (1) Any of the following:

19 (i) A grant, contract or loan provided by an agency
20 of the Commonwealth or a local government.

21 (ii) A welfare, health, disability, public or
22 assisted housing, postsecondary education, food
23 assistance, unemployment benefit or any other similar
24 benefit for which payments or assistance are provided to
25 an individual, household or family eligibility unit by an
26 agency of the Commonwealth or a local government.

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

28 (i) Benefits listed under section 411(b) of the
29 Personal Responsibility and Work Opportunity
30 Reconciliation Act of 1996 (Public Law 104-193, 8 U.S.C.

1 § 1621(b)).

2 (ii) A contract for a nonimmigrant whose visa for
3 entry is related to employment in the United States or to
4 a citizen of a freely associated state, if section 141 of
5 the applicable compact of free association approved under
6 the Compact of Free Association Act of 1985 (Public Law
7 99-239, 99 Stat. 1770) or the Joint Resolution to approve
8 the "Compact of Free Association" between the United
9 States and the Government of Palau, and for other
10 purposes (Public Law 99-658, 100 Stat. 3672) or a
11 successor provision, is in effect.

12 (iii) Benefits for an alien who as a work-authorized
13 nonimmigrant or as an alien lawfully admitted for
14 permanent residence under the Immigration and Nationality
15 Act (66 Stat. 163, 8 U.S.C. § 1101 et seq.) qualified for
16 benefits and for whom the United States under reciprocal
17 treaty agreements is required to pay benefits, as
18 determined by the Secretary of State, after consultation
19 with the Attorney General of the United States.

20 (iv) A Federal public benefit under section 401(c)
21 of the Personal Responsibility and Work Opportunity
22 Reconciliation Act of 1996 (Public Law 104-193, 8 U.S.C.
23 § 1611(c)).

24 (v) Nutrition programs enumerated in section
25 742(b)(2) of the Personal Responsibility and Work
26 Opportunity Reconciliation Act of 1996 (Public Law 104-
27 193, 8 U.S.C. § 1615(b)(2)).

28 (vi) Programs providing assistance in the form of
29 food or food vouchers, including the Special Supplemental
30 Nutrition Program for Women, Infants and Children.

1 (vii) Protective services provided under the act of
2 November 6, 1987 (P.L.381, No.79), known as the Older
3 Adults Protective Services Act, and the act of October 7,
4 2010 (P.L.484, No.70), known as the Adult Protective
5 Services Act.

6 (viii) Services provided to a victim of a severe
7 form of trafficking in persons as defined under 22 U.S.C.
8 § 7105(b)(1)(C) (relating to protection and assistance
9 for victims of trafficking).

10 (ix) Unemployment benefits for an alien who has
11 obtained employment authorization from the Department of
12 Homeland Security.

13 ~~Section 3. Identification required.~~ <--

14 ~~(a) General rule. A person who applies directly to an~~
15 ~~agency for public benefits shall:~~

16 ~~(1) Provide, in person, by mail or by electronic means,~~
17 ~~one of the following forms of identification to the agency:~~

18 ~~(i) A valid driver's license or identification card~~
19 ~~issued by the Department of Transportation.~~

20 ~~(ii) A valid identification card issued by any other~~
21 ~~agency of the Commonwealth.~~

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

25 ~~(iv) A valid United States passport.~~

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

30 ~~(vi) A form of identification as listed in United~~

1 ~~States Attorney General's Order Number 2129-97 Interim~~
2 ~~Guidance on Verification of Citizenship, Qualified Alien~~
3 ~~Status and Eligibility Under Title IV of the Personal~~
4 ~~Responsibility and Work Opportunity Reconciliation Act of~~
5 ~~1996, as issued by the Department of Justice at 62 Fed.~~
6 ~~Reg. 61,344 (Nov. 17, 1997) or a subsequent version of~~
7 ~~that Attorney General's document.~~

8 ~~(2) Execute an affidavit stating that the person is a~~
9 ~~United States citizen or legal permanent resident or is~~
10 ~~otherwise lawfully present in the United States under Federal~~
11 ~~law. The affidavit shall be provided, in person, by mail or~~
12 ~~by electronic means, to the agency.~~

13 "PUBLIC MONEY." THE TERM INCLUDES THE COST OF ARREST, <--
14 PROSECUTION, INCARCERATION OR DETAINMENT OF AN UNAUTHORIZED
15 ALIEN AND ANY RELATED EXPENSES.

16 "UNAUTHORIZED ALIEN." AN ALIEN WHO IS NOT ELIGIBLE FOR ANY
17 STATE OR LOCAL PUBLIC BENEFITS UNDER SECTION 411(A) OF THE
18 PERSONAL RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT
19 OF 1996 (PUBLIC LAW 104-193, 8 U.S.C. § 1621(A)).

20 SECTION 3. IDENTIFICATION AND ELIGIBILITY.

21 (A) REQUIREMENTS.--A PERSON WHO APPLIES DIRECTLY TO AN
22 AGENCY FOR PUBLIC BENEFITS SHALL PROVIDE PROOF OF IDENTIFICATION
23 AND PROOF OF ELIGIBILITY IN ACCORDANCE WITH THIS SECTION.

24 (B) PROOF OF IDENTIFICATION.--

25 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), A PERSON
26 SUBJECT TO SUBSECTION (A) MUST PROVIDE, IN PERSON, BY MAIL OR
27 BY ELECTRONIC MEANS, ONE OF THE FOLLOWING FORMS OF
28 IDENTIFICATION TO THE AGENCY:

29 (I) A VALID DRIVER'S LICENSE OR IDENTIFICATION CARD
30 ISSUED BY THE DEPARTMENT OF TRANSPORTATION.

1 (II) A VALID IDENTIFICATION CARD ISSUED BY ANY OTHER
2 AGENCY OF THE COMMONWEALTH.

3 (III) A VALID IDENTIFICATION CARD ISSUED BY THE
4 UNITED STATES GOVERNMENT, A STATE GOVERNMENT OR THE
5 CANADIAN GOVERNMENT.

6 (IV) A VALID UNITED STATES PASSPORT.

7 (V) A DOCUMENT FROM AN AGENCY OF THE UNITED STATES
8 OR A STATE NATIONAL GUARD ESTABLISHING THAT THE PERSON IS
9 A CURRENT MEMBER OF OR A VETERAN OF THE UNITED STATES
10 ARMED FORCES OR NATIONAL GUARD.

11 (VI) A FORM OF IDENTIFICATION AS LISTED IN UNITED
12 STATES ATTORNEY GENERAL'S ORDER NUMBER 2129-97 INTERIM
13 GUIDANCE ON VERIFICATION OF CITIZENSHIP, QUALIFIED ALIEN
14 STATUS AND ELIGIBILITY UNDER TITLE IV OF THE PERSONAL
15 RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF
16 1996, AS ISSUED BY THE DEPARTMENT OF JUSTICE AT 62 FED.
17 REG. 61,344 (NOV. 17, 1997) OR A SUBSEQUENT VERSION OF
18 THAT ATTORNEY GENERAL'S ORDER.

19 (2) IF THE PERSON DOES NOT POSSESS A FORM OF
20 IDENTIFICATION LISTED IN PARAGRAPH (1), THE PERSON MUST
21 PROVIDE, IN PERSON, BY MAIL OR BY ELECTRONIC MEANS, AN
22 AFFIDAVIT STATING THAT THE PERSON SIGNING THE AFFIDAVIT IS
23 THE PERSON WHO IS APPLYING FOR PUBLIC BENEFITS AND THAT THE
24 PERSON DOES NOT POSSESS A FORM OF IDENTIFICATION LISTED IN
25 PARAGRAPH (1).

26 (C) PROOF OF ELIGIBILITY.--TO DEMONSTRATE ELIGIBILITY, A
27 PERSON SUBJECT TO SUBSECTION (A) MUST PROVIDE IN PERSON, BY MAIL
28 OR BY ELECTRONIC MEANS ONE OF THE FOLLOWING TO THE AGENCY:

29 (1) AN AFFIDAVIT STATING THAT THE PERSON IS A UNITED
30 STATES CITIZEN.

1 (2) AN AFFIDAVIT STATING THAT THE PERSON IS ELIGIBLE FOR
2 STATE OR LOCAL BENEFITS UNDER SECTION 411(A) OF THE PERSONAL
3 RESPONSIBILITY AND WORK OPPORTUNITY RECONCILIATION ACT OF
4 1996 (PUBLIC LAW 104-193, 8 U.S.C. § 1621(A)).

5 ~~(b)~~ (D) Recordkeeping of affidavit.--The agency shall <--
6 maintain the affidavit required under ~~subsection (a)(2)~~ <--
7 SUBSECTIONS (B) AND (C) in accordance with the applicable <--
8 records retention schedule.

9 ~~(e)~~ (E) Exceptions.--Subsection (a) shall not apply to: <--

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

11 (2) A person currently receiving Supplemental Security
12 Income or Social Security disability income.

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

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

17 (5) A person whose citizenship has been verified
18 ~~pursuant to~~ UNDER section 1902(ee) of the Social Security Act <--
19 (49 Stat. 620, 42 U.S.C. § 1396a(ee)).

20 (6) A person who declares by affidavit that, because of
21 domestic violence, the person does not currently possess any
22 of the identification documents listed in subsection (a)(1).
23 The domestic violence shall be verified using state standards
24 developed under section 402(a)(7) of the Personal
25 Responsibility and Work Opportunity Reconciliation Act of
26 1996 (Public Law 104-193, 42 U.S.C. § 602(a)(7)).

27 Section 4. Verification through SAVE program.

28 (a) General rule.--An agency that administers public
29 benefits shall verify, through the Systematic Alien Verification
30 for Entitlements (SAVE) Program operated by the Department of

1 Homeland Security or a successor program designated by the
2 Department of Homeland Security, that each noncitizen applicant
3 who has executed an affidavit under section ~~3(a) is an alien~~ <--
4 ~~legally present in the United States.~~ 3(C) (2) IS ELIGIBLE FOR <--
5 STATE OR LOCAL BENEFITS UNDER SECTION 411(A) OF THE PERSONAL
6 RESPONSIBILITY AND WORK RECONCILIATION ACT OF 1996 (PUBLIC LAW
7 104-193, 42 U.S.C. § 602(A) (7)).

8 (b) Presumption of ~~lawful presence~~ ELIGIBILITY by <--
9 affidavit.--Until ~~such~~ verification of ~~lawful presence~~ <--
10 ELIGIBILITY is made, the affidavit executed under section ~~3(a)~~ <--
11 ~~may be presumed to be proof of lawful presence for purposes of~~
12 ~~this act.~~

13 ~~Section 5. Unlawful possession of access device.~~

14 (a) ~~Offense defined. A person commits an offense if the~~
15 ~~person:~~

16 (1) ~~possesses an access device while not being an~~
17 ~~authorized user;~~

18 (2) ~~has procured through fraud or misrepresentation an~~
19 ~~access device; or~~

20 (3) ~~possesses a counterfeit access device.~~

21 (b) ~~Grading.~~

22 (1) ~~Except as otherwise provided in paragraph (3), a~~
23 ~~person who violates subsection (a) (1) commits a misdemeanor~~
24 ~~of the second degree.~~

25 (2) ~~Except as otherwise provided in paragraph (4), a~~
26 ~~person who violates subsection (a) (2) or (3) commits a~~
27 ~~misdemeanor of the first degree.~~

28 (3) ~~A person who violates subsection (a) (1) commits a~~
29 ~~misdemeanor of the first degree if the person is not lawfully~~
30 ~~present in the United States as determined by Federal~~

1 ~~immigration officials.~~

2 ~~(4) A person who violates subsection (a) (2) or (3)~~
3 ~~commits a felony of the third degree if the person is not~~
4 ~~lawfully present in the United States as determined by~~
5 ~~Federal immigration officials.~~ 3(C) (2) MAY BE PRESUMED TO BE <--
6 PROOF THAT THE PERSON IS ELIGIBLE FOR STATE OR LOCAL BENEFITS
7 UNDER SECTION 411(A) OF THE PERSONAL RESPONSIBILITY AND WORK
8 RECONCILIATION ACT OF 1996 (PUBLIC LAW 104-193, 42 U.S.C. §
9 602(A) (7)).

10 SECTION 5. PROHIBITING ISSUANCE OF ACCESS DEVICES TO PERSONS
11 WHO ARE NOT AUTHORIZED CARDHOLDERS.

12 AN AGENCY MAY NOT ISSUE AN ACCESS DEVICE TO A PERSON WHO IS
13 NOT ELIGIBLE TO BE AN AUTHORIZED CARDHOLDER.

14 SECTION 6. POSSESSION OR USE OF ACCESS DEVICE.

15 (A) OFFENSE DEFINED.--A PERSON COMMITS AN OFFENSE IF THE
16 PERSON:

17 (1) IS NOT AN AUTHORIZED CARDHOLDER AND POSSESSES OR
18 USES AN ACCESS DEVICE; OR

19 (2) POSSESSES OR USES AN ACCESS DEVICE THAT WAS NOT
20 ISSUED TO THE PERSON.

21 (B) SEPARATE OFFENSES.--EACH TIME A PERSON POSSESSES OR USES
22 AN ACCESS DEVICE IN VIOLATION OF SUBSECTION (A) CONSTITUTES A
23 SEPARATE OFFENSE UNDER THIS SECTION.

24 (C) GRADING.--A PERSON WHO VIOLATES SUBSECTION (A) COMMITS A
25 FELONY OF THE THIRD DEGREE.

26 Section ~~6~~ 7. False statements. <--

27 A person who knowingly and willfully makes a false,
28 fictitious or fraudulent statement of representation in an
29 affidavit executed under section 3 may be subject to prosecution
30 under 18 Pa.C.S. § 4904 (relating to unsworn falsification to

1 authorities).

2 Section 7 8. Nondiscrimination. <--

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

5 Section 8 9. Systematic Alien Verification for Entitlements <--

6 (SAVE) Program.

7 (a) Reporting.--If an agency encounters errors and
8 significant delays when using the Systematic Alien Verification
9 for Entitlements (SAVE) Program under section 4 the agency shall
10 report the errors and delays to the United States Department of
11 Homeland Security and to the Attorney General.

12 (b) Monitoring.--The Attorney General shall monitor the
13 Systematic Alien Verification for Entitlements (SAVE) Program
14 and its verification application for errors and significant
15 delays and report yearly on the errors and significant delays to
16 ensure that the application of the Systematic Alien Verification
17 for Entitlements (SAVE) Program is not wrongfully denying
18 benefits to legal residents of this Commonwealth.

19 SECTION 10. NOTIFICATION TO THE GOVERNOR'S OFFICE OF <--

20 ADMINISTRATION AND POSTING ON PENNWATCH.

21 (A) GENERAL RULE.--AN AGENCY, UPON DETERMINING THAT PUBLIC
22 MONEY HAS BEEN EXPENDED ON OR PUBLIC BENEFITS PROVIDED TO AN
23 UNAUTHORIZED ALIEN SHALL PREPARE AN INVOICE LISTING THE COST OF
24 THE EXPENDITURES OR BENEFITS. THE AGENCY SHALL TRANSMIT THE
25 INVOICE ALONG WITH ANY IDENTIFYING INFORMATION CONCERNING THE
26 UNAUTHORIZED ALIEN TO THE GOVERNOR'S OFFICE OF ADMINISTRATION
27 FOR INCLUSION IN THE PUBLICLY ACCESSIBLE INTERNET WEBSITE KNOWN
28 AS PENNWATCH.

29 (B) ACCESS.--THE GOVERNOR'S OFFICE OF ADMINISTRATION SHALL
30 PROVIDE ACCESS TO THE INVOICES UNDER THE ACT OF FEBRUARY 14,

1 2008 (P.L.6, NO.3), KNOWN AS THE RIGHT-TO-KNOW LAW.

2 Section ~~9~~ 11. Applicability. <--

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

7 (b) Federal funding and law.--This act shall not apply to
8 applications for public benefits and renewal of public benefits
9 filed directly with an agency if compliance with this act would
10 lead to loss of Federal funding or be in conflict with any
11 Federal law.

12 Section ~~10~~ 12. Effective date. <--

13 This act shall take effect in 120 days.