
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 9

Session of
2017

INTRODUCED BY STEFANO, SCARNATI, FOLMER, GORDNER, ALLOWAY,
WHITE, GREENLEAF, YAW, VOGEL, ARGALL, EICHELBERGER, RAFFERTY,
WARD, HUTCHINSON, VULAKOVICH, WAGNER, SCAVELLO, BROOKS,
AUMENT, BARTOLOTTA, LANGERHOLC, DISANTO, MARTIN, REGAN AND
YUDICHAK, JANUARY 20, 2017

REFERRED TO STATE GOVERNMENT, JANUARY 20, 2017

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 "Person." An individual.

4 "Public benefits."

5 (1) Any of the following:

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

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

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

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

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

29 (iii) Benefits for an alien who as a work-authorized
30 nonimmigrant or as an alien lawfully admitted for

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

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

11 (v) Nutrition programs enumerated in section
12 742(b)(2) of the Personal Responsibility and Work
13 Opportunity Reconciliation Act of 1996 (Public Law 104-
14 193, 8 U.S.C. § 1615(b)(2)).

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

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

23 (viii) Services provided to a victim of a severe
24 form of trafficking in persons as defined under 22 U.S.C.
25 § 7105(b)(1)(C) (relating to protection and assistance
26 for victims of trafficking).

27 (ix) Unemployment benefits for an alien who has
28 obtained employment authorization from the Department of
29 Homeland Security.

30 Section 3. Identification required.

1 (a) General rule.--A person who applies directly to an
2 agency for public benefits shall:

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

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

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

9 (iii) A valid identification card issued by the
10 United States Government, a state government or the
11 Canadian Government.

12 (iv) A valid United States passport.

13 (v) A document from an agency of the United States
14 or a state National Guard establishing that the person is
15 a current member of or a veteran of the United States
16 Armed Forces or National Guard.

17 (vi) A form of identification as listed in United
18 States Attorney General's Order Number 2129-97 Interim
19 Guidance on Verification of Citizenship, Qualified Alien
20 Status and Eligibility Under Title IV of the Personal
21 Responsibility and Work Opportunity Reconciliation Act of
22 1996, as issued by the Department of Justice at 62 Fed.
23 Reg. 61,344 (Nov. 17, 1997) or a subsequent version of
24 the order.

25 (2) Execute an affidavit stating that the person is a
26 United States citizen or legal permanent resident or is
27 otherwise lawfully present in the United States under Federal
28 law. The affidavit shall be provided, in person, by mail or
29 by electronic means, to the agency.

30 (b) Recordkeeping of affidavit.--The agency shall maintain

1 the affidavit required under subsection (a) (2) in accordance
2 with the applicable records retention schedule.

3 (c) Exceptions.--Subsection (a) shall not apply to:

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

5 (2) A person currently receiving Supplemental Security
6 Income or Social Security disability income.

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

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

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

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

21 Section 4. Verification through SAVE program.

22 (a) General rule.--An agency that administers public
23 benefits shall verify, through the Systematic Alien Verification
24 for Entitlements (SAVE) Program operated by the Department of
25 Homeland Security or a successor program designated by the
26 Department of Homeland Security, that each noncitizen applicant
27 who has executed an affidavit under section 3(a) is an alien
28 legally present in the United States.

29 (b) Presumption of lawful presence by affidavit.--Until such
30 verification of lawful presence is made, the affidavit executed

1 under section 3(a) may be presumed to be proof of lawful
2 presence for purposes of this act.

3 Section 5. Unlawful possession of access device.

4 (a) Offense defined.--A person commits an offense if the
5 person:

6 (1) possesses an access device while not being an
7 authorized user;

8 (2) has procured through fraud or misrepresentation an
9 access device; or

10 (3) possesses a counterfeit access device.

11 (b) Grading.--

12 (1) Except as otherwise provided in paragraph (3), a
13 person who violates subsection (a)(1) commits a misdemeanor
14 of the second degree.

15 (2) Except as otherwise provided in paragraph (4), a
16 person who violates subsection (a)(2) or (3) commits a
17 misdemeanor of the first degree.

18 (3) A person who violates subsection (a)(1) commits a
19 misdemeanor of the first degree if the person is not lawfully
20 present in the United States as determined by Federal
21 immigration officials.

22 (4) A person who violates subsection (a)(2) or (3)
23 commits a felony of the third degree if the person is not
24 lawfully present in the United States as determined by
25 Federal immigration officials.

26 Section 6. 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. Nondiscrimination.

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

5 Section 8. 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
10 shall report the errors and delays to the Department of Homeland
11 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 9. Applicability.

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

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

29 Section 10. Effective date.

30 This act shall take effect in 120 days.