

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

AS AMENDED ON SECOND CONSIDERATION, JUNE 19, 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 OR OTHER PROOF OF LAWFUL PRESENCE ISSUED BY THE <--  
25 DEPARTMENT OF HOMELAND SECURITY OR ANOTHER FEDERAL  
26 AGENCY.

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

1 by electronic means, to the agency.

2 (b) Recordkeeping of affidavit.--The agency shall maintain  
3 the affidavit required under subsection (a)(2) in accordance  
4 with the applicable records retention schedule.

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

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

7 (2) A person currently receiving Supplemental Security  
8 Income or Social Security disability income.

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

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

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

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

23 Section 4. Verification through SAVE program.

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

1 (b) Presumption of lawful presence by affidavit.--Until such  
2 verification of lawful presence is made, the affidavit executed  
3 under section 3(a) may be presumed to be proof of lawful  
4 presence for purposes of this act.

5 Section 5. Unlawful possession of access device.

6 (a) Offense defined.--A person commits an offense if the  
7 person:

8 ~~(1) possesses an access device while not being an~~ <--  
9 ~~authorized user;~~

10 ~~(2)~~ (1) has procured through fraud or misrepresentation <--  
11 an access device; or

12 ~~(3)~~ (2) possesses a counterfeit access device. <--

13 (b) Grading.--

14 ~~(1) Except as otherwise provided in paragraph (3), a~~ <--  
15 ~~person who violates subsection (a)(1) commits a misdemeanor~~  
16 ~~of the second degree.~~

17 ~~(2)~~ (1) Except as otherwise provided in paragraph ~~(4)~~ <--

18 ~~(2)~~, a person who violates subsection ~~(a)(2)~~ (A) (1) or ~~(3)~~ <--

19 (2) commits a misdemeanor of the first degree. <--

20 ~~(3) A person who violates subsection (a)(1) commits a~~ <--

21 ~~misdemeanor of the first degree if the person is not lawfully~~  
22 ~~present in the United States as determined by Federal~~  
23 ~~immigration officials.~~

24 ~~(4)~~ (2) A person who violates subsection ~~(a)(2)~~ (A) (1) <--

25 or ~~(3)~~ (2) commits a felony of the third degree if the person <--

26 is not lawfully present in the United States as determined by  
27 Federal immigration officials.

28 Section 6. False statements.

29 A person who knowingly and willfully makes a false,  
30 fictitious or fraudulent statement of representation in an

1 affidavit executed under section 3 may be subject to prosecution  
2 under 18 Pa.C.S. § 4904 (relating to unsworn falsification to  
3 authorities).

4 Section 7. Nondiscrimination.

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

7 Section 8. Systematic Alien Verification for Entitlements  
8 (SAVE) Program.

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

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

21 Section 9. Applicability.

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

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

1 Section 10. Effective date.

2 This act shall take effect in 120 days.