

A BILL TO BE ENTITLED  
AN ACT

1 To amend Chapter 36 of Title 50 of the Official Code of Georgia Annotated, relating to  
2 verification of lawful presence within the United States, so as to provide for a certain  
3 statement for persons under 18 years of age to be executed after attaining the age of 18; to  
4 provide requirements for the submission of documents; to provide that certain documents  
5 may be submitted by facsimile; to provide exceptions; to provide an effective date; to repeal  
6 conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Chapter 36 of Title 50 of the Official Code of Georgia Annotated, relating to verification of  
10 lawful presence within the United States, is amended by revising Code Section 50-36-1,  
11 relating to verification requirements, procedures, and conditions, exceptions, regulations, and  
12 criminal and other penalties, as follows:

13 "50-36-1.

14 (a) As used in this Code section, the term:

15 (1) 'Agency head' means a director, commissioner, chairperson, mayor, councilmember,  
16 board member, sheriff, or other executive official, whether appointed or elected,  
17 responsible for establishing policy for a public employer.

18 (2) 'Agency or political subdivision' means any department, agency, authority,  
19 commission, or government entity of this state or any subdivision of this state.

20 (3) 'Applicant' means any natural person, 18 years of age or older, who has made  
21 application for access to public benefits on behalf of an individual, business, corporation,  
22 partnership, or other private entity.

23 (4)(A) 'Public benefit' means a federal benefit as defined in 8 U.S.C. Section 1611, a  
24 state or local benefit as defined in 8 U.S.C. Section 1621, a benefit identified as a public  
25 benefit by the Attorney General of Georgia, or a public benefit which shall include the  
26 following:

- 27 (i) Adult education;
- 28 (ii) Authorization to conduct a commercial enterprise or business;
- 29 (iii) Business certificate, license, or registration;
- 30 (iv) Business loan;
- 31 (v) Cash allowance;
- 32 (vi) Disability assistance or insurance;
- 33 (vii) Down payment assistance;
- 34 (viii) Energy assistance;
- 35 (ix) Food stamps;
- 36 (x) Gaming license;
- 37 (xi) Health benefits;
- 38 (xii) Housing allowance, grant, guarantee, or loan;
- 39 (xiii) Loan guarantee;
- 40 (xiv) Medicaid;
- 41 (xv) Occupational license;
- 42 (xvi) Professional license;
- 43 (xvii) Registration of a regulated business;
- 44 (xviii) Rent assistance or subsidy;
- 45 (xix) State grant or loan;
- 46 (xx) State identification card;
- 47 (xxi) Tax certificate required to conduct a commercial business;
- 48 (xxii) Temporary assistance for needy families (TANF);
- 49 (xxiii) Unemployment insurance; and
- 50 (xxiv) Welfare to work.

51 (B) Each year before August 1, the Attorney General shall prepare a detailed report  
 52 indicating any 'public benefit' that may be administered in this state as defined in 8  
 53 U.S.C. Sections 1611 and 1621 and whether such benefit is subject to SAVE  
 54 verification pursuant to this Code section. Such report shall provide the description of  
 55 the benefit and shall be updated annually and distributed to the members of the General  
 56 Assembly and be posted to the Attorney General's website.

57 (b) Except as provided in subsection (d) of this Code section or where exempted by federal  
 58 law, every agency or political subdivision shall verify the lawful presence in the United  
 59 States of any applicant for public benefits.

60 (c) This Code section shall be enforced without regard to race, religion, gender, ethnicity,  
 61 or national origin.

62 (d) Verification of lawful presence under this Code section shall not be required:

- 63 (1) For any purpose for which lawful presence in the United States is not required by  
 64 law, ordinance, or regulation;
- 65 (2) For assistance for health care items and services that are necessary for the treatment  
 66 of an emergency medical condition, as defined in 42 U.S.C. Section 1396b(v)(3), of the  
 67 alien involved and are not related to an organ transplant procedure;
- 68 (3) For short-term, noncash, in-kind emergency disaster relief;
- 69 (4) For public health assistance for immunizations with respect to immunizable diseases  
 70 and for testing and treatment of symptoms of communicable diseases whether or not such  
 71 symptoms are caused by a communicable disease;
- 72 (5) For programs, services, or assistance such as soup kitchens, crisis counseling and  
 73 intervention, and short-term shelter specified by the United States Attorney General, in  
 74 the United States Attorney General's sole and unreviewable discretion after consultation  
 75 with appropriate federal agencies and departments, which:
- 76 (A) Deliver in-kind services at the community level, including through public or  
 77 private nonprofit agencies;
- 78 (B) Do not condition the provision of assistance, the amount of assistance provided,  
 79 or the cost of assistance provided on the individual recipient's income or resources; and
- 80 (C) Are necessary for the protection of life or safety;
- 81 (6) For prenatal care; or
- 82 (7) For postsecondary education, whereby the Board of Regents of the University System  
 83 of Georgia or the State Board of the Technical College System of Georgia shall set forth,  
 84 or cause to be set forth, policies regarding postsecondary benefits that comply with all  
 85 federal law including but not limited to public benefits as described in 8 U.S.C. Section  
 86 1611, 1621, or 1623.
- 87 (e)(1) An agency or political subdivision providing or administering a public benefit  
 88 shall require every applicant for such benefit to:
- 89 (A) Provide at least one secure and verifiable document, or a facsimile of such  
 90 document, as defined in Code Section 50-36-2. Any document required by this  
 91 subparagraph may be submitted by or on behalf of the applicant at any time within nine  
 92 months prior to the date of application so long as the document remains valid through  
 93 the licensing or approval period or such other period for which the applicant is applying  
 94 to receive a public benefit; and
- 95 (B) Execute a signed ~~and sworn affidavit~~ statement, under penalty of perjury, verifying  
 96 the applicant's lawful presence in the United States and stating; provided, however, that  
 97 if the applicant is under the age of 18 years at the time of the application, he or she shall  
 98 execute the statement required by this subparagraph within 30 days after his or her  
 99 eighteenth birthday. Such statement shall affirm that:

- 100 (i) The applicant is a United States citizen or legal permanent resident 18 years of age  
 101 or older; or
- 102 (ii) The applicant is a qualified alien or nonimmigrant under the federal Immigration  
 103 and Nationality Act, Title 8 U.S.C., 18 years of age or older lawfully present in the  
 104 United States and ~~providing~~ provide the applicant's alien number issued by the  
 105 Department of Homeland Security or other federal immigration agency.
- 106 (2) The state auditor shall create ~~affidavits~~ forms for use under this subsection and shall  
 107 keep a current version of such ~~affidavits~~ forms on the Department of Audits and  
 108 Accounts' official website.
- 109 (3) Documents required by this subsection may be submitted in person, by mail, or  
 110 electronically, provided the submission complies with Chapter 12 of Title 10 or such  
 111 other standards as are acceptable to the agency or political subdivision.
- 112 (4) The requirements of this subsection shall not apply to:
- 113 (A) Any applicant renewing an application for a public benefit within the same agency  
 114 or political subdivision if the applicant has previously complied with the requirements  
 115 of this subsection by submission of a secure and verifiable document establishing that  
 116 such applicant is a United States citizen; or
- 117 (B) Any applicant applying for a new public benefit within the same agency or political  
 118 subdivision if the applicant has previously complied with the requirements of this  
 119 subsection by submission of a secure and verifiable document establishing that such  
 120 applicant is a United States citizen.
- 121 (f) For any applicant who has executed ~~an affidavit~~ a statement verifying that he or she is  
 122 an alien lawfully present in the United States, eligibility for public benefits shall be made  
 123 through the Systematic Alien Verification of Entitlement (SAVE) program operated by the  
 124 United States Department of Homeland Security or a successor program designated by the  
 125 United States Department of Homeland Security. Until such eligibility verification is  
 126 made, the ~~affidavit~~ statement may be presumed to be proof of lawful presence for the  
 127 purposes of this Code section.
- 128 (g) Any person who knowingly and willfully makes a false, fictitious, or fraudulent  
 129 statement of representation in ~~an affidavit~~ statement executed pursuant to this Code section  
 130 shall be guilty of a violation of Code Section 16-10-20.
- 131 (h) Verification of citizenship through means required by federal law shall satisfy the  
 132 requirements of this Code section.
- 133 (i) It shall be unlawful for any agency or political subdivision to provide or administer any  
 134 public benefit in violation of this Code section. On or before January 1 of each year, each  
 135 agency or political subdivision which administers any public benefit shall provide an  
 136 annual report to the Department of Community Affairs that identifies each public benefit;

137 ~~as defined in subparagraph (a)(3)(A) of this Code section~~, administered by the agency or  
138 political subdivision and a listing of each public benefit for which SAVE authorization for  
139 verification has not been received.

140 (j) Any and all errors and significant delays by SAVE shall be reported to the United  
141 States Department of Homeland Security.

142 (k) Notwithstanding subsection (g) of this Code section, any applicant for public benefits  
143 shall not be guilty of any crime for executing ~~an affidavit attesting to a statement verifying~~  
144 his or her lawful presence in the United States that contains a false statement if ~~said~~  
145 affidavit such statement is not required by this Code section.

146 (l) In the event a legal action is filed against any agency or political subdivision alleging  
147 improper denial of a public benefit arising out of an effort to comply with this Code  
148 section, the Attorney General shall be served with a copy of the proceeding and shall be  
149 entitled to be heard.

150 (m) Compliance with this Code section by an agency or political subdivision shall include  
151 taking all reasonable, necessary steps required by a federal agency to receive authorization  
152 to utilize the SAVE program or any successor program designated by the United States  
153 Department of Homeland Security or other federal agency, including providing copies of  
154 statutory authorization for the agency or political subdivision to provide public benefits and  
155 other affidavits, letters of memorandum of understanding, or other required documents or  
156 information needed to receive authority to utilize the SAVE program or any successor  
157 program for each public benefit provided by such agency or political subdivision. An  
158 agency or political subdivision that takes all reasonable, necessary steps and submits all  
159 requested documents and information as required in this subsection but either has not been  
160 given access to use such programs by such federal agencies or has not completed the  
161 process of obtaining access to use such programs shall not liable for failing to use the  
162 SAVE program or any such successor program to verify eligibility for public benefits.

163 (n) In the case of noncompliance with the provisions of this Code section by an agency or  
164 political subdivision, the appropriations committee of each house of the General Assembly  
165 may consider such noncompliance in setting the budget and appropriations.

166 (o) No employer, agency, or political subdivision shall be subject to lawsuit or liability  
167 arising from any act to comply with the requirements of this chapter; provided, however,  
168 that the intentional and knowing failure of any agency head to abide by the provisions of  
169 this chapter shall:

170 (1) Be a violation of the code of ethics for government service established in Code  
171 Section 45-10-1 and subject such agency head to the penalties provided for in Code  
172 Section 45-10-28, including removal from office and a fine not to exceed \$10,000.00; and

173 (2) Be a high and aggravated misdemeanor offense where such agency head acts to  
174 willfully violate the provisions of this Code section or acts so as to intentionally and  
175 deliberately interfere with the implementation of the requirements of this Code section.  
176 The Attorney General shall have the authority to conduct a criminal and civil investigation  
177 of an alleged violation of this chapter by an agency or agency head and to bring a  
178 prosecution or civil action against an agency or agency head for all cases of violations  
179 under this chapter. In the event that an order is entered against an employer, the state shall  
180 be awarded attorney's fees and expenses of litigation incurred in bringing such an action  
181 and investigating such violation."

182 **SECTION 2.**

183 This Act shall become effective upon its approval by the Governor or upon its becoming law  
184 without such approval.

185 **SECTION 3.**

186 All laws and parts of laws in conflict with this Act are repealed.