

HOUSE BILL 1390

By Dennis

AN ACT to amend Tennessee Code Annotated, Title 2 and Title 4, to enact the "Tennessee Taxpayer and Citizen Protection Act".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. The general assembly finds that illegal immigration is causing economic hardship to this state and that illegal immigration is encouraged by public agencies within this state that provide public benefits without verifying immigration status. The general assembly further finds that illegal immigrants have been given a safe haven in this state with the aid of identification cards that are issued without verifying immigration status, and that this conduct contradicts federal immigration policy, undermines the security of our borders and demeans the value of citizenship. Therefore, the people of this state declare that the public interest of this state requires all public agencies within this state to cooperate with federal immigration authorities to discourage illegal immigration.

SECTION 2. Tennessee Code Annotated, Title 4, is amended by inserting Sections 3 through 6 below as a new, appropriately designated chapter.

SECTION 3. This chapter shall be known and may be cited as the "Tennessee Taxpayer and Citizen Protection Act".

SECTION 4. It is the public policy of this state and the purpose of this chapter that all persons eighteen (18) years of age or older shall provide proof that they are lawfully present in the United States prior to the receipt of certain public benefits.

SECTION 5. As used in this chapter, unless the context otherwise requires:

(1) "Emergency medical condition" has the same meaning as provided in 42 U.S.C. § 1396b(v)(3);

(2) "Federal public benefits" has the same meaning as provided in 8 U.S.C. § 1611; and

(3) "State or local public benefits" has the same meaning as provided in 8 U.S.C. § 1621.

SECTION 6.

(a) Except as provided in subsection (c) or where exempted by federal law, on or after July 1, 2010, every agency or political subdivision of this state shall verify the lawful presence in the United States of any natural person eighteen (18) years of age or older who has applied for state or local public benefits or for federal public benefits that are provided by or administered by an agency or political subdivision of this state.

(b) This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

(c) Verification of lawful presence under this section shall not be required:

(1) For any purpose for which lawful presence in the United States is not required by law, ordinance, or regulation;

(2) For obtaining health care items and services that are necessary for the treatment of an emergency medical condition of the person involved and that are not related to an organ transplant procedure;

(3) For short-term, noncash, in-kind emergency disaster relief;

(4) For public health assistance for immunizations with respect to immunizable diseases and for testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease;

(5) For programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and short-term shelter care, so long as such programs, services or assistance:

(A) Deliver noncash, in-kind services at the community level, including through public or private nonprofit agencies;

(B) Do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources; and

(C) Are necessary for the protection of life or safety;

(6) For prenatal care; or

(7) For postsecondary education, whereby the Tennessee higher education commission shall set forth, or cause to be set forth, policies regarding postsecondary benefits that comply with all federal law including but not limited to public benefits as described in 8 U.S.C. §§ 1611, 1621, or 1623.

(d) An agency or a political subdivision shall verify the lawful presence in the United States of each applicant eighteen (18) years of age or older for federal public benefits or state or local public benefits by requiring the applicant to execute an affidavit stating that the applicant is a United States citizen or legal permanent resident or that the applicant is otherwise lawfully present in the United States pursuant to federal law.

(e) For any applicant who has executed an affidavit that such applicant is an alien lawfully present in the United States, eligibility for benefits shall be made through the Systematic Alien Verification for Entitlements (SAVE) program operated by the United States department of homeland security, or the federal electronic work authorization verification service provided by the United States department of homeland security pursuant to the federal Basic Pilot Program Extension and Expansion Act of

2003, P.L. 108-156, or such other successor immigration status verification program as may be designated by the United States department of homeland security. Until such eligibility verification is made, the affidavit may be presumed to be proof of lawful presence for the purposes of this section.

(f) Any person who knowingly makes a false, fictitious, or fraudulent statement of representation in an affidavit executed pursuant to subsection (d) commits the offense of aggravated perjury as defined in § 39-16-703. It shall constitute a separate violation of § 39-16-703 each time that a person receives a public benefit based upon such a statement or representation.

(g) Agencies or political subdivisions of this state may adopt variations to the requirements of this section to improve efficiency or reduce delay in the verification process or to provide for adjudication of unique individual circumstances where the verification procedures in this section would impose unusual hardship on a legal resident of this state.

(h) It shall be unlawful for any agency or a political subdivision of this state to provide a federal benefit or a state or local public benefit in violation of this section. Each state agency or department that administers any program that provides state or local public benefits shall provide an annual report with respect to its compliance with this section to the governor and to the speakers of the senate and house of representatives by no later than February 1.

(i) Any and all errors and significant delays in using any verification program pursuant to subsection (e) shall be reported to the United States department of homeland security and to the Tennessee secretary of state. The secretary of state shall monitor the use of verification programs, compile and analyze information submitted concerning verification application errors and significant delays, and report to the

governor and to the speakers of the senate and house and representatives by no later than February 1 of each year regarding the frequency of such errors and delays and whether such errors and delays are preventing the receipt of benefits by legal residents of Tennessee.

SECTION 7. This act shall take effect July 1, 2010, the public welfare requiring it.