

SENATE BILL 1325

By Johnson

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 68 and Title 71, relative to public benefits.

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

SECTION 1. Tennessee Code Annotated, Title 4, is amended by adding the following language as a new, appropriately designated chapter:

4-57-101.

This chapter shall be known and may be cited as the "Eligibility Verification for Entitlements Act".

4-57-102.

It is the public policy of this state and the purpose of this chapter that agencies and political subdivisions of this state shall verify that an applicant eighteen (18) years of age or older applying for a federal, state or local benefit meets all eligibility requirements for such benefit, including lawful presence as applicable.

4-57-103.

As used in this chapter:

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

(2) "SAVE program" means the systematic alien verification for entitlements program created pursuant to the federal Immigration Reform and Control Act of 1986 and operated by the United States department of homeland security, or any successor program thereto; and

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

4-57-104.

(a) Notwithstanding any other law and except where prohibited by federal law, every agency and political subdivision of this state shall verify the eligibility of each applicant eighteen (18) years of age or older who applies for a federal, state or local public benefit from an agency or political subdivision of this state.

(b) For purposes of this chapter, verification of eligibility by the agency or political subdivision required to make such verification shall require that the applicant execute an affidavit under penalty of perjury that:

- (1) The applicant is a United States citizen; or
- (2) The applicant is a qualified alien as defined by 8 U.S.C. § 1641(b).

(c) For an applicant who has executed the affidavit described in subdivision (b)(1), the agency or political subdivision shall make every reasonable effort to ascertain verification of the applicant's citizenship, which may include, but not be limited to, requesting the applicant to present any one (1) of the following:

- (1)
 - (i) A valid Tennessee driver license or photo identification license issued by the department of safety; or
 - (ii) A valid driver license or photo identification license from another state where the issuance requirements are at least as strict as those in Tennessee, as determined by the department of safety;
- (2) An official birth certificate issued by a U.S. state, jurisdiction or territory, including Puerto Rico, U.S. Virgin Islands, Northern Mariana Islands, American Samoa, Swain's Island, Guam; provided, that Puerto Rican birth

certificates issued before July 1, 2010, will not be recognized under this subdivision (c)(2);

- (3) A U.S. government-issued certified birth certificate;
- (4) A valid, unexpired U.S. passport;
- (5) A U.S. certificate of birth abroad (DS-1350 or FS-545);
- (6) A report of birth abroad of a citizen of the U.S. (FS-240);
- (7) A certificate of citizenship (N560 or N561);
- (8) A certificate of naturalization (N550, N570 or N578);
- (9) A U.S. citizen identification card (I-197, I-179); or
- (10) Any successor document of subdivisions (c)(4)-(8).

(d) For an applicant who has executed the affidavit described in subdivision (b)(2), pursuant to 42 U.S.C. § 1320b-7 as required by § 121 of the Immigration Reform and Control Act of 1986, the applicant shall present either:

(1) Valid alien registration documentation or other proof of current immigration registration recognized by the United States department of homeland security that contains the individual's complete legal name and current alien admission number or alien file number (or numbers if the individual has more than one number); or

(2) Such other valid documentation of identity and immigration status as the United States department of homeland security may require in order to verify the applicant's status as a qualified alien through the SAVE program.

(e)

(1) If a document described in subsection (c) is presented, then the agency or political subdivision shall verify the individual's status as a United States citizen by contacting the entity that issued the document.

(2) If a document described in subsection (d) is presented, then the agency or political subdivision shall verify the individual's status as a qualified alien with the United States department of homeland security through the SAVE program.

(3) Each agency or political subdivision shall maintain a copy of all documentation submitted by the applicant for verification for a period of no less than three (3) years.

(f)

(1) The affidavits submitted pursuant to subsection (b) shall be presumed to be proof of an individual's eligibility under this chapter until a final verification has been received by the agency or political subdivision, and no agency or political subdivision shall delay the distribution of any federal, state or local benefit solely based on awaiting a final verification.

(2) Upon receipt of a final verification that indicates that the applicant is not a United States citizen or qualified alien, the agency or political subdivision shall terminate any recurring benefit, and shall pursue any action applicable against the applicant pursuant to § 4-57-105 or § 4-57-106.

(g) In addition to the execution of an affidavit pursuant to subsection (b), the agency or political subdivision shall provide the applicant with written notice at the time of executing the affidavit that describes the penalties that the applicant shall be subject to if the applicant violates this chapter. The agency or political subdivision may provide such written notice in any language as deemed appropriate within the discretion of the agency or political subdivision; provided, that the provision of the written notice in any language other than English shall be provided either at the applicant's expense or within existing resources.

(h) Verification through use of the SAVE program shall not be required:

(1) For any federal public benefit that does not require lawful presence in the United States as an eligibility requirement pursuant to federal law; or

(2) For any state or local benefit listed in 8 U.S.C. § 1621(b).

(i) The verification process required by this section shall be enforced without regard to race, religion, gender, ethnicity or national origin.

4-57-105.

(a) Any natural person eighteen (18) years of age or older who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit required by § 4-57-104(b) shall be liable under either:

(1) The Tennessee Medicaid False Claims Act, compiled in §§ 71-5-181—71-5-185; or

(2) The False Claims Act, compiled chapter 18 of this title.

(b) Any natural person who conspires to defraud the state or any political subdivision by getting a false claim allowed or paid to another person in violation of this chapter shall be liable under § 4-18-103(a)(3).

(c) An agency or political subdivision shall file, with the attorney general and reporter of this state, a complaint alleging a violation pursuant to subsections (a) or (b), as applicable.

(d) Any moneys collected pursuant to this section shall be deposited with and utilized by the applicable agency or political subdivision that filed a complaint pursuant to subsection (c). The applicable agency or political subdivision shall establish a fund for the deposit of such moneys, and shall use such moneys for the sole purpose of enforcing this chapter. Any interest accruing on investments and deposits of the fund

shall be credited to such fund, shall not revert to any general fund, and shall be carried forward into each subsequent fiscal year.

4-57-106.

An agency or political subdivision shall file, with the United States attorney, a complaint alleging a criminal violation of 18 U.S.C. § 911, for each person who willfully makes a false, fictitious, or fraudulent statement or representation of United States citizenship in an affidavit required by § 4-57-104(b)(1).

4-57-107.

(a) No agency or political subdivision of this state shall provide or offer to provide any federal, state or local public benefit, as defined in 8 U.S.C. § 1611 and 8 U.S.C. § 1621, in violation of this chapter.

(b) The comptroller of the treasury shall verify that all agencies and political subdivisions affected by this chapter are participating in the SAVE program by periodic audit or inspection of documentation, files and reports.

(c) The comptroller of the treasury shall provide written guidance on complying with this chapter for municipalities and counties upon written request.

4-57-108.

Notwithstanding any other federal law, no agency or political subdivision of this state shall be prohibited, or in any way restricted, from sending to or receiving from the Immigration and naturalization service information regarding the immigration status, lawful or unlawful, of an alien in the United States.

4-57-109.

This chapter shall be interpreted so as to be fully consistent with all federal laws, including but not limited to federal laws regulating immigration, labor, and medicaid, and all state laws.

4-57-110.

Nothing in this chapter shall be interpreted as limiting an agency or political subdivision in regards to the application process currently utilized by the agency or political subdivision for administering a federal, state or local public benefit, including but not limited to, requesting additional information from the applicant or requiring additional verification of eligibility.

SECTION 2. Tennessee Code Annotated, Section 4-18-103(d), is amended by deleting the subsection in its entirety and by substituting instead the following language:

(d) This section does not apply to any controversy involving an amount of less than five hundred dollars (\$500) in value, unless the controversy arose from a violation of chapter 57, part 1 of this title. For purposes of this subsection (d), “controversy” means any one (1) or more false claims submitted by the same person in violation of this chapter.

SECTION 3.

(a) All affected state agencies are authorized to promulgate rules and regulations to effectuate the purposes of this act. All rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) A political subdivision may adopt an ordinance or a resolution to carry out the requirements of this act.

SECTION 4. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

SECTION 5. For purposes of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect October 1, 2011, the public welfare requiring it, and shall apply to all applications for benefits submitted to agencies or political subdivisions of this state on or after October 1, 2011.