

HOUSE No. 02195

The Commonwealth of Massachusetts

PRESENTED BY:

Bradley H. Jones, Jr.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to restrictions on public benefits.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>
<i>James Lyons, Jr.</i>	<i>18th Essex</i>
<i>Marc Lombardo</i>	<i>22nd Middlesex</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>
<i>Geoff Diehl</i>	<i>7th Plymouth</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>Richard Bastien</i>	<i>2nd Worcester</i>
<i>Daniel K. Webster</i>	<i>6th Plymouth</i>
<i>Donald Wong</i>	<i>9th Essex</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Angelo D'Emilia</i>	<i>8th Plymouth</i>
<i>Kevin Kuros</i>	<i>8th Worcester</i>
<i>Ryan Fattman</i>	<i>18th Worcester</i>
<i>Sheila Harrington</i>	<i>1st Middlesex</i>

<i>Matthew Beaton</i>	<i>11th Worcester</i>
<i>Kimberly Ferguson</i>	<i>1st Worcester</i>
<i>Nicholas Boldyga</i>	<i>3rd Hampden</i>
<i>Steven L. Levy</i>	<i>4th Middlesex</i>
<i>David Vieira,</i>	<i>3rd Barnstable</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>
<i>George Ross</i>	<i>2nd Bristol</i>
<i>Paul Adams</i>	<i>17th Essex</i>
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>
<i>Elizabeth Poirier</i>	<i>14th Bristol</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>

HOUSE No. 02195

By Mr. Jones of North Reading, a petition (accompanied by bill, House, No. 2195) of Adams and others for legislation to establish penalties for illegal residents providing fraudulent information to obtain public assistance Joint Committee on the Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to restrictions on public benefits.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. The General Laws are hereby amended by inserting after chapter 117A the
- 2 following new chapter:--
- 3 Chapter 117B
- 4 Restrictions on Public Benefits
- 5 Section 1. Definitions. As used in this chapter the following terms shall have the following
- 6 meanings unless the context clearly requires otherwise:-
- 7 “Emergency Medical Condition,” the same meaning as provided in section 1396b (v) (3) of Title
- 8 42 of the United States Code.
- 9 “Federal Public Benefits,” the same meaning as provided in section 1611 of Title 8 of the United
- 10 States Code.

11 “State Public Benefits,” the same meaning as provided in section 1621 of Title 8 of the United
12 States Code.

13 Section 2. (a) Except as otherwise provided in subsection (d) or where exempted by federal law,
14 on and after January 1, 2012, each agency or political subdivision of the commonwealth shall
15 verify the lawful presence in the United States of every natural person 18 years of age or older
16 who applies for state public benefits or for federal public benefits which are for the benefit of the
17 applicant.

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

20 (c) Verification of lawful presences in the United States shall not be required: for any purpose for
21 which lawful presence in the United States is not required by law, ordinance, or rule; for
22 obtaining health care items and services that are necessary for the treatment of an emergency
23 medical condition of the person involved and are not related to an organ transplant procedure; for
24 short-term, non-cash, in-kind emergency disaster relief; for public health assistance for
25 immunization with respect to diseases and for testing and treatment of symptoms of
26 communicable diseases; for programs, services, or assistance, such as soup kitchens, crisis
27 counseling and intervention, and short-term shelter specified by federal laws or regulations that:
28 deliver in-kind services at the community level, including services through public or private
29 nonprofit agencies; do not condition the provision of assistance, the amount of assistance
30 provided, or the cost of assistance provided on the individual recipient’s income or resources;
31 and are necessary for the protection of life or safety or; for parental care.

32 (d) (1) An agency or a political subdivision shall verify the lawful presence in the United States
33 of each applicant 18 years of age or older for federal public benefits or state public benefits by
34 requiring the applicant to produce a valid Massachusetts driver's license or a Massachusetts
35 identification card, issued pursuant to section 8 of chapter 90, and section 540 of the Code of
36 Massachusetts Regulations 2.06 (3) (b); a United States military card or military dependent's
37 identification card; or a United States Coast Guard Merchant Mariner card; or a Native American
38 tribal document.

39 (2) If such documentation as required in paragraph (1) of subsection (d) cannot be lawfully
40 produced, the applicant must execute a notarized affidavit stating that the applicant is a United
41 States citizen or legal permanent resident; or that the applicant is otherwise lawfully present in
42 the United States pursuant to federal law.

43 (e) Notwithstanding the requirements of paragraph (1) of subsection (d), the commissioner of the
44 department of revenue may issue an emergency rule, to be effective until July 1, 2011, providing
45 for additional forms of identification or a waiver process to ensure that an individual seeking
46 benefits pursuant to this section proves lawful presence in the United States. This subsection and
47 all emergency rules authorized hereunder shall cease to be effective as of July 1, 2011.

48 (f) A person who knowingly makes a false, fictitious, or fraudulent statement or representation in
49 an affidavit executed pursuant to paragraph (2) of subsection (d) shall pay a fine of not less than
50 \$1,000 and not more than \$5,000, or shall be sentenced to serve not less than 6 months nor more
51 than 1 year in a house of corrections. Each time a person receives a public benefit based upon
52 such a statement or representation they make shall constitute a separate violation of this section.

53 (g) (1) For an applicant who has executed an affidavit stating that he or she is an alien lawfully

54 present in the United States, verification of lawful presence for federal public benefits or state or
55 local public benefits shall be made through the Federal Systematic Alien Verification for
56 Entitlement program, referred to in this section as the “SAVE program”, operated by the United
57 States Department of Homeland Security. Until such verification of lawful presence is made, the
58 affidavit may be presumed to be proof of lawful presence for purposes of this section.

59 (2) The secretary of each executive office of the commonwealth shall promulgate regulations to
60 ensure that each agency or political subdivision has access to the SAVE program by way of the
61 executive office under which it is organized. Each executive office shall be responsible for the
62 verification through the SAVE program of all its sub-agencies. Each executive office shall enter
63 into a memorandum of understanding or any other requirement pursuant to the SAVE program in
64 order to streamline the verification process. Each executive office shall keep an account of all
65 applications submitted through its subdivisions and transfer back to its subdivisions any costs on
66 an annual basis.

67 (h) Agencies or political subdivisions of the commonwealth may adopt variations of the
68 requirements of this section to improve efficiency or reduce delay in the verification process or
69 to provide for adjudication of unique circumstances in which the verification procedures in the
70 section would impose unusual hardship on a legal resident of the commonwealth; provided, that
71 the variations shall be no less stringent than the requirements of this section, including provisions
72 to timely execute notarized affidavits.

73 (i) It shall be unlawful for an agency or political subdivision of the commonwealth to provide a
74 federal public benefit or state or local public benefit in violation of this section. Each agency or
75 department that administers a program that provides state or local public benefits shall provide

76 an annual report with respect to its compliance with this section to the auditor and to the House
77 and Senate chairs of the joint committee on state administration and regulatory oversight.

78 (j) Errors and significant delays by the SAVE program shall be reported to the United States
79 Department of Homeland Security which monitors the SAVE program and its verification
80 application errors and significant delays and report yearly on such errors and delays, to ensure
81 that the application of the SAVE program is not wrongfully denying benefits to legal residents of
82 the State.

83 Section 3. If any provision of this act or the application thereof to any person or circumstance is
84 held by any court to be unconstitutional or otherwise invalid, such invalidity shall not affect
85 other provisions or applications of this act that can be given effect without the invalid provision
86 or application, and to this end the provisions of the section are declared to be severable.