

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Enforce Immigration Laws and Restrict Benefits to Legal Citizens

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 17-A MRSA §15-A, sub-§§2 and 3, as amended by PL 2003, c. 657, §2, are further amended to read:

2. Any person who a law enforcement officer has probable cause to believe has committed or is committing a crime other than one listed under section 15, subsection 1, paragraph A, and to whom a law enforcement officer is authorized to deliver a summons pursuant to subsection 1, who intentionally fails or refuses to provide to that officer reasonably credible evidence of that person's correct name, address or, date of birth or citizenship commits a Class E crime, if the person persists in the failure or refusal after having been informed by the officer of the provisions of this subsection. If that person furnishes the officer evidence of the person's correct name, address and, date of birth and citizenship and the evidence does not appear to be reasonably credible, the officer shall attempt to verify the evidence as quickly as is reasonably possible. During the period the verification is being attempted, the officer may require the person to remain in the officer's presence for a period not to exceed 2 hours. During this period, if the officer reasonably believes that the officer's safety or the safety of others present requires, the officer may search for any dangerous weapon by an external patting of that person's outer clothing. If in the course of the search the officer feels an object that the officer reasonably believes to be a dangerous weapon, the officer may take such action as is necessary to examine the object, but may take permanent possession of the object only if it is subject to forfeiture. The requirement that the person remain in the presence of the officer does not constitute an arrest. After informing that person of the provisions of this subsection, the officer may arrest the person either if the person intentionally refuses to furnish any evidence of that person's correct name, address or, date of birth or citizenship or if, after attempting to verify the evidence as provided for in this subsection, the officer has probable cause to believe that the person has intentionally failed to provide reasonably credible evidence of the person's correct name, address or, date of birth or citizenship.

3. If, at any time subsequent to an arrest made pursuant to subsection 2, it appears that the evidence of the person's correct name, address and, date of birth and citizenship was accurate, the person must be released from custody and any record of that custody must show that the person was released for that reason. If, upon trial for violating subsection 2, a person is acquitted on the ground that the evidence of the person's correct name, address and, date of birth and citizenship was accurate, the record of acquittal must show that that was the ground.

Sec. 2. 17-A MRSA §17, sub-§2, as amended by PL 2003, c. 657, §4, is further amended to read:

2. Any person to whom a law enforcement officer is authorized to issue or deliver a summons pursuant to subsection 1 who intentionally fails or refuses to provide the officer reasonably credible evidence of the person's correct name, address ~~or~~, date of birth or citizenship commits a Class E crime, if the person persists in that failure or refusal after having been informed by the officer of the provisions of this subsection. If the person furnishes the officer evidence of that person's correct name, address and, date of birth and citizenship and the evidence does not appear to be reasonably credible, the officer shall attempt to verify the evidence as quickly as is reasonably possible. During the period that verification is being attempted, the officer may require the person to remain in the officer's presence for a period not to exceed 2 hours. During this period, if the officer reasonably believes that the officer's safety or the safety of others present requires, the officer may search for any dangerous weapon by an external patting of the person's outer clothing. If in the course of the search the officer feels an object that the officer reasonably believes to be a dangerous weapon, the officer may take such action as is necessary to examine the object, but may take permanent possession of the object only if it is subject to forfeiture. The requirement that the person remain in the presence of the officer does not constitute an arrest.

After informing the person of the provisions of this subsection, the officer may arrest the person either if the person intentionally refuses to furnish any evidence of that person's correct name, address ~~or~~, date of birth or citizenship or if, after attempting to verify the evidence as provided for in this subsection, the officer has probable cause to believe that the person has intentionally failed to provide reasonably credible evidence of the person's correct name, address ~~or~~, date of birth or citizenship.

Sec. 3. 17-A MRSA §17, sub-§3, as amended by PL 2003, c. 657, §4, is further amended to read:

3. If, at any time subsequent to an arrest made pursuant to subsection 2, it appears that the evidence of the person's correct name, address and, date of birth and citizenship was accurate, the person must be released from custody and any record of that custody must show that the person was released for that reason. If, upon trial for violating subsection 2, a person is acquitted on the ground that the evidence of the person's correct name, address and, date of birth and citizenship was accurate, the record of acquittal must show that that was the ground.

Sec. 4. 17-A MRSA §18 is enacted to read:

§ 18. Enforcement of immigration laws

1. If a law enforcement officer is in lawful contact with a person and has a reasonable suspicion that the person is an alien who is unlawfully present in the United States, the law enforcement officer must make a reasonable attempt, when practicable, to determine the immigration status of that person. The person's immigration status must be verified with the Federal Government pursuant to 8 United States Code, Section 1373(c).

2. An alien who is unlawfully present in the United States and who has been convicted of a violation of state law or a municipal ordinance or has been discharged from imprisonment must be transferred immediately to the custody of the United States Immigration and Customs Enforcement or the United States Customs and Border Protection. A law enforcement officer shall securely transport an

alien who is unlawfully present in the United States and who is in the custody of the State to a federal facility in this State or to a point of transfer into federal custody that is outside the jurisdiction of the law enforcement officer.

3. An official of a governmental entity may not be prohibited or restricted from sending, receiving or maintaining information relating to the immigration status of an individual or exchanging that information with a federal or governmental entity to:

A. Determine eligibility for a public benefit, service or license provided by the Federal Government or any other governmental entity;

B. Verify a claim of residence or domicile if determination of residence or domicile is required under the laws of this State or a judicial order issued pursuant to a civil or criminal proceeding in this State;

C. Confirm the identity of a detained person; or

D. If the person is an alien, determine whether the person is in compliance with the federal registration laws prescribed by the federal Immigration and Nationality Act, Title II, Chapter 7.

Sec. 5. 22 MRSA §3104, sub-§15 is enacted to read:

15. Residency. Notwithstanding any other provisions of this section and section 3104A to the contrary, beginning January 1, 2012 the department may not provide food supplement program benefits to an applicant who is not a legal resident of the United States and a resident of this State.

Sec. 6. 22 MRSA §3195 is enacted to read:

§ 3195. Residency

Beginning January 1, 2012, it is a condition of eligibility for assistance under this chapter that an applicant be a legal resident of the United States and a resident of this State. The department shall require an applicant for assistance under this chapter to demonstrate that the applicant meets this condition. The department shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules under Title 5, chapter 375, subchapter 2A.

Sec. 7. 22 MRSA §3769-D is enacted to read:

§ 3769-D. Residency

Beginning January 1, 2012, it is a condition of eligibility for assistance under this chapter that an applicant be a legal resident of the United States and a resident of this State. The department shall require an applicant for assistance under this chapter to demonstrate that the applicant meets this condition. The department shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules under Title 5, chapter 375, subchapter 2A.

Sec. 8. 22 MRSA §4301, sub-§3, as enacted by PL 1983, c. 577, §1, is amended to read:

3. Eligible person. "Eligible person" means a person legal resident of the United States and a resident of this State who is qualified to receive general assistance from a municipality according to standards of eligibility determined by the municipal officers whether or not that person has applied for general assistance.

SUMMARY

This bill requires a law enforcement officer who legally detains a person for a suspected criminal or civil violation to require that person to provide proof of citizenship in addition to name, address and date of birth. If a law enforcement officer has a reasonable suspicion that the person is an illegal alien, the officer must attempt to determine the immigration status of the person. A person illegally in the United States who has been convicted of a crime in this State, following completion of the punishment, must be transferred immediately to the custody of the United States Immigration and Customs Enforcement or the United States Customs and Border Protection.

This bill also requires an applicant for state assistance under the Temporary Assistance for Needy Families program, the MaineCare program or the food stamp program or for municipal assistance to be a legal resident of the United States and a resident of this State.