

HOUSE BILL 388

By Carr

AN ACT to amend Tennessee Code Annotated, Title 4 and
Title 39, relative to receipt of public benefits.

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

SECTION 1. Tennessee Code Annotated, Title 4, is amended by inserting Sections 2 through 5 of this act as a new, appropriately designated chapter thereto.

SECTION 2. It is the public policy of the state of Tennessee and the purpose of this chapter that state agencies and political subdivisions of the state shall verify that persons eighteen (18) years of age or older are lawfully present in the United States prior to providing certain public benefits.

SECTION 3. 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;

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

(4) "Systematic alien verification for entitlements program" or "SAVE program" means the federal electronic verification of citizenship authorization program commonly referred to as the "SAVE" program, for use in verifying the immigration status of non-citizen applicants or recipients of certain federally funded benefits and programs by federal, state and local agencies that administer those programs, which was created pursuant to the federal Immigration Reform and Control Act of 1986 and which is administered by the federal department of homeland security.

SECTION 4.

(a) Except as otherwise provided in this section or where exempted by federal law, on and after August 1, 2009, each agency or political subdivision of the state shall verify the lawful presence in the United States of each natural person eighteen (18) years of age or older who applies for state or local public benefits or for federal public benefits prior to providing such benefits.

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

(c) Verification of lawful presence in the United States shall not be required:

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

(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 prenatal care; or

(6) For services or assistance provided by public or private non-profit agencies or programs, including, but not limited to, 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;

(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.

(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 participating in the SAVE program for the electronic verification of eligibility for services, or a successor program designated by the United States department of homeland security, and shall maintain a copy of documentation verifying the eligibility of the applicant for a period of no less than three (3) years.

(e) No agency or political subdivision of this state shall provide a federal public benefit or a state or local public benefit in violation of this section. The state shall verify that appropriate agencies are participating in the SAVE program by periodic audit or inspection of documentation, files and reports.

SECTION 5. This chapter shall be interpreted so as to be fully consistent with all federal laws including federal laws regulating immigration, labor, and Medicaid, and all state laws enacted prior to this chapter.

SECTION 6. 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 7. This act shall take effect upon becoming a law, the public welfare requiring it.