

SENATE BILL 681

By Tracy

AN ACT to amend Tennessee Code Annotated, Title 8 and Title 49, relative to persons unlawfully present in the United States.

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

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 8, Part 1, is amended by adding the following language as a new section:

49-8-118.

(a) No person who is unlawfully present in the United States shall be eligible to attend a public higher education institution within the board of regents system on or after the fall semester of 2012 or any subsequent semester thereafter.

(b) The board of regents shall implement and administer a verification process by which the lawful presence of each student applicant is verified by either a valid government-issued form of identification or the federal systematic alien verification of entitlements (SAVE) program, as operated by the United States department of homeland security, or any successor program. The board of regents shall specify what forms of identification recognized by the federal government to prove lawful presence shall be acceptable. Graduation from a high school located in the United States shall not be sufficient evidence of lawful presence in the United States. As a part of such verification process, each applicant for admission shall 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)(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.

(d) If the documentation described in subsection (c) is presented, then the institution shall verify the applicant's status as a qualified alien by using the SAVE program. The institution shall maintain a copy of all documentation submitted by the applicant for verification by the SAVE program for a period of no less than five (5) years.

(e)

(1) The affidavit submitted pursuant to subdivision (b)(2) shall be presumed to be proof of an applicant's eligibility under this section until a final verification from the SAVE program has been received by the institution, and no institution shall delay the admission of any applicant while awaiting a final verification from the SAVE program.

(2) Upon receipt of a final verification from the SAVE program that indicates that the applicant is not a qualified alien, the institution shall terminate

the applicant's status as a student, and shall pursue any action applicable against the applicant pursuant to subsections (f) and (g).

(f) Any natural person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit required by subsection (b) shall be liable under § 4-18-103(a)(9). Any monies collected as a civil penalty pursuant to § 4-18-103 shall be utilized by the institution to administer this section.

(g) An institution shall file, with the United States Attorney, a complaint alleging a criminal violation of 8 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 subdivision (b)(1).

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

(i) The verification process shall be developed and operate within existing resources. If the board of regents finds that existing resources are insufficient to fund the verification process, additional application fees may be assessed.

(j) Any transfer student who has been verified pursuant to this section by an institution within the board of regents system or University of Tennessee system shall not be subject to the verification process required by this section at the new institution; provided, that the prior institution submits proof of the prior verification to the transfer student's new institution.

SECTION 2. Tennessee Code Annotated, Title 49, Chapter 9, Part 1, is amended by adding the following language as a new section:

49-9-113.

(a) No person who is unlawfully present in the United States shall be eligible to attend a public higher education institution within the University of Tennessee system on or after the fall semester of 2012 or any subsequent semester thereafter.

(b) The board of trustees shall implement and administer a verification process by which the lawful presence of each student applicant is verified by either a valid government-issued form of identification or the federal systematic alien verification of entitlements (SAVE) program, as operated by the United States department of homeland security, or any successor program. The board of trustees shall specify what forms of identification recognized by the federal government to prove lawful presence shall be acceptable. Graduation from a high school located in the United States shall not be sufficient evidence of lawful presence in the United States. As a part of such verification process, each applicant for admission shall 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)(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.

(d) If the documentation described in subsection (c) is presented, then the institution shall verify the applicant's status as a qualified alien by using the SAVE program. The institution shall maintain a copy of all documentation submitted by the applicant for verification by the SAVE program for a period of no less than five (5) years.

(e)

(1) The affidavit submitted pursuant to subdivision (b)(2) shall be presumed to be proof of an applicant's eligibility under this section until a final verification from the SAVE program has been received by the institution, and no institution shall delay the admission of any applicant while awaiting a final verification from the SAVE program.

(2) Upon receipt of a final verification from the SAVE program that indicates that the applicant is not a qualified alien, the institution shall terminate the applicant's status as a student, and shall pursue any action applicable against the applicant pursuant to subsections (f) and (g).

(f) Any natural person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit required by subsection (b) shall be liable under § 4-18-103(a)(9). Any monies collected as a civil penalty pursuant to § 4-18-103 shall be utilized by the institution to administer this section.

(g) An institution shall file, with the United States Attorney, a complaint alleging a criminal violation of 8 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 subdivision (b)(1).

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

(i) The verification process shall be developed and operate within existing resources. If the board of trustees finds that existing resources are insufficient to fund the verification process, additional application fees may be assessed.

(j) Any transfer student who has been verified pursuant to this section by an institution within the board of regents system or University of Tennessee system shall not be subject to the verification process required by this section at the new institution; provided, that the prior institution submits proof of the prior verification to the transfer student's new institution.

SECTION 3. Tennessee Code Annotated, Section 4-18-103(a)(9), is amended by adding the following language to the end of the subdivision:

For purposes of this subdivision (a)(9), "value" includes, but is not limited to, attendance at any public higher education institution in the board of regents system or the University of Tennessee system.

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. This act shall take effect January 1, 2012, the public welfare requiring it, and shall apply to all initial enrollees at public higher education institutions during or after the fall semester of 2012.