MISSISSIPPI LEGISLATURE

By: Representatives Lott, Fillingane, Howell, Martinson, Moore, Palazzo, Staples

REGULAR SESSION 2007

To: Public Health and Human Services; Appropriations

HOUSE BILL NO. 1218

AN ACT TO REQUIRE STATE AGENCIES AND POLITICAL SUBDIVISIONS TO VERIFY THE LAWFUL PRESENCE IN THE UNITED STATES OF ANY PERSON WHO APPLIES FOR STATE, LOCAL OR FEDERAL PUBLIC BENEFITS; TO PROVIDE FOR CERTAIN EXCEPTIONS TO THIS REQUIREMENT FOR VERIFICATION; TO PROVIDE THAT APPLICANTS FOR PUBLIC BENEFITS MUST EXECUTE AN AFFIDAVIT THAT HE OR SHE IS A UNITED STATES CITIZEN OR IS A QUALIFIED ALIEN UNDER FEDERAL LAW AND IS LAWFULLY PRESENT IN THE UNITED STATES; TO PROVIDE FOR A CRIMINAL PENALTY FOR WILLFULLY MAKING A FALSE STATEMENT OF REPRESENTATION IN THE AFFIDAVIT REQUIRED BY THIS ACT; TO REQUIRE EACH STATE AGENCY AND POLITICAL SUBDIVISION THAT ADMINISTERS ANY PROGRAM OF STATE OR LOCAL PUBLIC BENEFITS TO PROVIDE AN ANNUAL REPORT TO THE ATTORNEY GENERAL WITH RESPECT TO ITS COMPLIANCE WITH THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. (1) Except as provided in subsection (3) of this section or where exempted by federal law, every agency and political subdivision of this state shall verify the lawful presence in the United States of any natural person fourteen (14) years of age or older who applies for state or local public benefits, as defined in 8 USCS Section 1621, or for federal public benefits, as defined in 8 USCS Section 1611, that is administered by an agency or a political subdivision of this state.

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

(3) Verification of lawful presence under this section shall not be required:

(a) For any purpose for which lawful presence in the United States is not restricted by law, ordinance, or regulation;

(b) For assistance for health care items and services that are necessary for the treatment of an emergency medical condition, as defined in 42 USCS Section 1396b(v)(3), of the
person involved and are not related to an organ transplant
procedure;

(c) For short-term, noncash, in-kind emergency disaster
relief;

(d) For public health assistance for immunizations with
respect to immunizable diseases and for testing and treatment of
symptoms of communicable diseases, whether or not those symptoms
are caused by a communicable disease; or

(e) For programs, services, or assistance such as soup
kitchens, crisis counseling and intervention, and short-term
shelter specified by the United States Attorney General, that:

(i) Deliver in-kind services at the community
level, including through public or private nonprofit agencies;

(ii) 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

(iii) Are necessary for the protection of life or
safety.

(4) Verification of lawful presence in the United States by
the agency or political subdivision required to make that
verification shall be done as follows: The applicant must execute
and affidavit under penalty of perjury that:

(a) He or she is a United States citizen; or

(b) He or she is a qualified alien under the federal
Immigration and Nationality Act, and is lawfully present in the
United States.

(5) For any applicant who has executed the affidavit
described in subsection (4)(b) of this section, eligibility for
benefits shall be made through the Systematic Alien Verification
of Entitlement (SAVE) program operated by the United States
Department of Homeland Security or a successor program designated
by the United States Department of Homeland Security. Until the
eligibility verification is made, the affidavit may be presumed to
be proof of lawful presence for the purposes of this section.

(6) Any person who knowingly and willfully makes a false,
fictitious, or fraudulent statement of representation in an
affidavit executed under subsection (4) of this section shall be
guilty of a violation of Section 97-7-10. If the affidavit
constitutes a false claim of United States citizenship under 18
USCS Section 911, a complaint shall be filed by the agency or
political subdivision requiring the affidavit with the United
States Attorney for the Northern District or Southern District of
Mississippi, as appropriate.

(7) Agencies or political subdivisions of this state may by
regulation adopt variations to the requirements of this section
that demonstrably improve the reliability of the verification
process, or to provide for adjudication of unique individual
circumstances where the verification procedures in this section
would impose unusual hardship on a legal resident of Mississippi.

(8) It shall be unlawful for any agency or a political
subdivision of this state to provide any state, local, or federal
benefit, as defined in 8 USCS Section 1621 or 8 USCS Section 1611,
in violation of this section.

(9) Each state agency or department which administers any
program of state or local public benefits shall provide an annual
report to the Attorney General with respect to its compliance with
this section. The Attorney General shall report any and all
errors to the United States Department of Homeland Security. The
Attorney General shall monitor SAVE and shall provide an annual
public report on the incidence of errors and significant delays,
and may make recommendations in that report to ensure that the
application of SAVE is not erroneously denying benefits to legal
residents of Mississippi.

SECTION 2. This act shall take effect and be in force from
and after July 1, 2007.