

By: Senator(s) McDaniel, Flowers, Lee (35th) To: Judiciary, Division A

SENATE BILL NO. 2133

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

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

15 **SECTION 1.** The Legislature finds that when illegal
16 immigrants have been sheltered and harbored in this state and
17 encouraged to reside in this state through the benefit of work
18 without verifying immigration status, these practices impede and
19 obstruct the enforcement of federal immigration law, undermine the
20 security of our borders, and impermissibly restrict the privileges
21 and immunities of the citizens of Mississippi. The Legislature
22 further finds that illegal immigration is encouraged when public
23 agencies within this state provide public benefits without
24 verifying immigration status. Therefore, the Legislature declares
25 that it is a compelling public interest of this state to
26 discourage illegal immigration by requiring all agencies within
27 this state to fully cooperate with federal immigration authorities
28 in the enforcement of federal immigration laws. The Legislature
29 also finds that other measures are necessary to ensure the
30 integrity of various governmental programs and services.



31 **SECTION 2.** (1) Except as provided in subsection (3) of this
32 section or where exempted by federal law, every agency and
33 political subdivision of this state shall verify the lawful
34 presence in the United States of any natural person fourteen (14)
35 years of age or older who applies for state or local public
36 benefits, as defined in 8 USCS Section 1621, or for federal public
37 benefits, as defined in 8 USCS Section 1611, that is administered
38 by an agency or a political subdivision of this state.

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

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

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

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

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

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

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

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

61 (ii) Do not condition the provision of assistance,
62 the amount of assistance provided, or the cost of assistance
63 provided on the individual recipient's income or resources; and



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

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

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

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

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

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

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



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

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

111 **SECTION 3.** This act shall take effect and be in force from
112 and after July 1, 2009.

