

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

To: Public Health and Human
Services; Appropriations

HOUSE BILL NO. 1218

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

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

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

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

29 (b) For assistance for health care items and services
30 that are necessary for the treatment of an emergency medical
31 condition, as defined in 42 USCS Section 1396b(v)(3), of the

32 person involved and are not related to an organ transplant
33 procedure;

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

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

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

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

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

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

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

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

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

58 (5) For any applicant who has executed the affidavit
59 described in subsection (4)(b) of this section, eligibility for
60 benefits shall be made through the Systematic Alien Verification
61 of Entitlement (SAVE) program operated by the United States
62 Department of Homeland Security or a successor program designated
63 by the United States Department of Homeland Security. Until the

64 eligibility verification is made, the affidavit may be presumed to
65 be proof of lawful presence for the purposes of this section.

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

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

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

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

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