

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Jeffrey Davis Perry

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to public benefits.

PETITION OF:

NAME:

Jeffrey Davis Perry

DISTRICT/ADDRESS:

5th Barnstable

20 shall verify the lawful presence in the United States of every natural person eighteen years of age or
21 older who applies for state public benefits or for federal public benefits which are for the benefit of the
22 applicant.

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

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

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

27 For obtaining health care items and services that are necessary for the treatment of an emergency
28 medical condition of the person involved and are not related to an organ transplant procedure;

29 For short-term, non-cash, in-kind emergency disaster relief;

30 For public health assistance for immunization with respect to diseases and for testing and treatment of
31 symptoms of communicable diseases;

32 For programs, services, or assistance, such as soup kitchens, crisis counseling and intervention, and
33 short-term shelter specified by Federal laws or regulations that:

34 Deliver in-kind services at the community level, including services through public or private nonprofit
35 agencies;

36 Do not condition the provision of assistance, the amount of assistance provided, or the cost of
37 assistance provided on the individual recipient's income or resources; and

38 Are necessary for the protection of life or safety or;

39 For parental care.

40 (d) An agency or a political subdivision shall verify the lawful presence in the United States of each
41 applicant eighteen years of age or older for federal public benefits or state public benefits by requiring
42 the applicant to:

43 (1) Produce:

44 A valid Massachusetts driver license or a Massachusetts identification card, issued pursuant to section 8
45 of chapter 90 of the General Laws, and 540 Code of Massachusetts Regulation (CMR) 2.06 (3) (b);

46 A United States military card or military dependent's identification card; or

47 A United States Coast Guard Merchant Mariner card; or

48 A Native American tribal document.

49 (2) If such documentation as required in subparagraph (1) of subsection (d) of this section cannot
50 be lawfully produced, execute a notarized affidavit stating:

51 That he or she is a United States citizen or legal permanent resident; or

52 That he or she is otherwise lawfully present in the United States pursuant to federal law.

53 (e) Notwithstanding the requirements of subparagraph (1) of subsection (d) of this section, the
54 Commissioner of the Department of Revenue may issue emergency rule, to be effective until July 1,
55 2008, providing for additional forms of identification or a waiver process to ensure that an individual
56 seeking benefits pursuant to this section proves lawful presence in the United States. This subsection
57 and all emergency rules authorized hereunder shall cease to be effective as of July 1, 2008.

58 (f) A person who knowingly makes a false, fictitious, or fraudulent statement or representation in an
59 affidavit executed pursuant to subsection (4) of this section shall pay a fine of not less than \$1,000 and
60 not more than \$5,000, or shall be sentenced to serve not less than 6 months nor more than 1 year in the
61 House of Corrections. Each time that a person receives a public benefit based upon such a statement or
62 representation they make shall constitute a separate violation of this section.

63 (g) (1) For an applicant who has executed an affidavit stating that he or she is an alien lawfully present in
64 the United States, verification of lawful presence for federal public benefits or state or local public
65 benefits shall be made through the Federal Systematic Alien Verification for Entitlement program,
66 referred to in this section as the "SAVE program", operated by the United States Department of
67 Homeland Security. Until such verification of lawful presence is made, the affidavit may be presumed to
68 be proof of lawful presence for purposes of this section.

69 (2) The secretary of each executive office of the commonwealth shall promulgate regulations to ensure
70 that each agency or political subdivision has access to the SAVE program by way of the executive office
71 under which it is organized. Each executive office shall be responsible for the verification through the
72 SAVE program of all its sub agencies. Each executive office shall enter into a memorandum of
73 understanding or any other requirement pursuant to the SAFE program in order to streamline the
74 verification process. Each executive office shall keep account of all applications submitted through its
75 subdivisions and transfer back to its subdivisions any costs on an annual basis.

76 (h) Agencies or political subdivisions of the commonwealth may adopt variations of the requirements of
77 paragraph (b) of subsection (4) of this section to improve efficiency or reduce delay in the verification
78 process or to provide for adjudication of unique individuals circumstances in which the verification
79 procedures in the section would impose unusual hardship on a legal resident of the commonwealth;
80 provided, that the variations shall be no less stringent than the requirements of this section, including
81 provisions to timely execute notarized affidavits.

82 (i) It shall be unlawful for an agency or political subdivision of the commonwealth to provide a federal
83 public benefit or state or local public benefit in violation of this section. Each agency or department that
84 administers a program that provides state or local public benefits shall provide an annual report with

85 respect to its compliance with this section to the auditor and to the House and Senate chairs of the joint
86 committee on state administration and regulatory oversight.

87 (j) Errors and significant delays by the SAVE program shall be reported to the United States Department
88 of Homeland Security which monitors the SAVE program and its verification application errors and
89 significant delays and report yearly on such errors and delays, to ensure that the application of the SAVE
90 program is not wrongfully denying benefits to legal residents of the State.

91 SECTION 3. If any provision of this act or the application thereof to any person or circumstance is held by
92 any court to be unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or
93 applications of this act that can be given effect without the invalid provision or application, and to this
94 end the provisions of the section are declared to be severable.