

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 230

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO VERIFICATION OF LAWFUL PRESENCE IN THE UNITED STATES; AMENDING SECTION 67-7903, IDAHO CODE, TO PROVIDE FOR AN ACTION TO BE SUBJECT TO CRIMINAL PENALTY AND TO REVISE CRIMINAL PENALTIES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 67-7903, Idaho Code, be, and the same is hereby amended to read as follows:

67-7903. VERIFICATION OF LAWFUL PRESENCE -- EXCEPTIONS -- REPORTING. (1) Except as otherwise provided in subsection (3) of this section or where exempted by federal law, each agency or political subdivision of this state shall verify the lawful presence in the United States of each natural person eighteen (18) years of age or older who applies for state or local public benefits or for federal public benefits for the applicant.

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

(3) Verification of lawful presence in the United States shall not be required:

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

(b) For obtaining health care items and services that are necessary for the treatment of an emergency medical condition 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 testing and treatment of symptoms of communicable diseases whether or not such symptoms are caused by a communicable disease;

(e) For programs, services or assistance, such as soup kitchens, crisis counseling and intervention and short-term shelter specified by federal law or regulation that:

(i) Deliver in-kind services at the community level, including services 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 public safety;

(f) For prenatal care;

(g) For postnatal care not to exceed twelve (12) months; or

(h) For food assistance for a dependent child under eighteen (18) years of age.

1 Notwithstanding the provisions of this subsection (3), for the county in-  
2 digent program, the limitations contained in section 31-3502(16)B., Idaho  
3 Code, shall apply.

4 (4) An agency or a political subdivision shall verify the lawful pres-  
5 ence in the United States of each applicant eighteen (18) years of age or  
6 older for federal public benefits or state or local public benefits by:

7 (a) Employing electronic means to verify an applicant is legally  
8 present in the United States; or

9 (b) Requiring the applicant to provide:

10 (i) An Idaho driver's license or an Idaho identification card  
11 issued pursuant to section 49-2444, Idaho Code;

12 (ii) A valid driver's license or similar document issued for the  
13 purpose of identification by another state or territory of the  
14 United States, if such license or document contains a photograph  
15 of the individual or such other personal identifying information  
16 relating to the individual that the director of the department of  
17 health and welfare or, with regard to unemployment compensation  
18 benefits, the director of the department of labor finds, by rule,  
19 sufficient for purposes of this section;

20 (iii) A United States military card or a military dependent's  
21 identification card;

22 (iv) A United States coast guard merchant mariner card;

23 (v) A native American tribal document;

24 (vi) A copy of an executive office of immigration review, immi-  
25 gration judge or board of immigration appeals decision, granting  
26 asylee status;

27 (vii) A copy of an executive office of immigration review, immi-  
28 gration judge or board of immigration appeals decision, indicat-  
29 ing that the individual may lawfully remain in the United States;

30 (viii) Any United States citizenship and immigration service is-  
31 sued document showing refugee or asylee status or that the indi-  
32 vidual may lawfully remain in the United States;

33 (ix) Any department of state or customs and border protection is-  
34 sued document showing the individual has been permitted entry into  
35 the United States on the basis of refugee or asylee status, or on  
36 any other basis that permits the individual to lawfully enter and  
37 remain in the United States; or

38 (x) A valid United States passport; and

39 (c) Requiring the applicant to provide a valid social security number  
40 that has been assigned to the applicant; and

41 (d) Requiring the applicant to attest, under penalty of perjury and on  
42 a form designated or established by the agency or the political subdivi-  
43 sion, that:

44 (i) The applicant is a United States citizen or legal permanent  
45 resident; or

46 (ii) The applicant is otherwise lawfully present in the United  
47 States pursuant to federal law.

48 (5) Notwithstanding the requirements of subsection (4) (b) of this sec-  
49 tion, the agency or political subdivision may establish by appropriate legal  
50 procedure such rules or regulations to ensure that certain individuals law-

1 fully present in the United States receive authorized benefits including,  
2 but not limited to, homeless state citizens.

3 (6) For an applicant who has attested pursuant to subsection (4) (d) of  
4 this section stating that the applicant is an alien lawfully present in the  
5 United States, verification of lawful presence for federal public benefits  
6 or state or local public benefits shall be made through the federal system-  
7 atic alien verification of entitlement program, which may be referred to as  
8 the "SAVE" program, operated by the United States department of homeland se-  
9 curity or a successor program designated by the United States department of  
10 homeland security. Until such verification of lawful presence is made, the  
11 attestation may be presumed to be proof of lawful presence for purposes of  
12 this section.

13 (a) Errors and significant delays by the SAVE program shall be reported  
14 to the United States department of homeland security to ensure that the  
15 application of the SAVE program is not wrongfully denying benefits to  
16 legal residents of this state.

17 (b) Agencies or political subdivisions may adopt variations of the re-  
18 quirements of subsection (4) (d) of this section to improve efficiency  
19 or reduce delay in the verification process or to provide for adjudica-  
20 tion of unique individual circumstances in which the verification pro-  
21 cedures in this section would impose unusual hardship on a legal resi-  
22 dent of this state; except that the variations shall be no less strin-  
23 gent than the requirements of subsection (4) (d) of this section.

24 (c) A person who knowingly makes a false, fictitious or fraudulent  
25 statement or representation in an attestation executed pursuant to  
26 subsection (4) (d) or (6) (b) of this section or who knowingly provides  
27 a social security number that has not been assigned to him pursuant to  
28 subsection (4) (c) of this section shall be:

- 29 (i) Guilty of a misdemeanor for the first and second offense; and  
30 (ii) Guilty of a felony for each subsequent offense.

31 (7) An agency or political subdivision may accept as prima facie evi-  
32 dence of an applicant's lawful presence in the United States the information  
33 required in subsection (4) of this section, as may be modified by subsection  
34 (5) of this section, when issuing a professional license or a commercial li-  
35 cense.