

TITLE 67
STATE GOVERNMENT AND STATE AFFAIRS

CHAPTER 79
RESTRICTIONS ON PUBLIC BENEFITS

67-7901. LEGISLATIVE FINDINGS. (1) The legislature hereby finds and declares that it is the public policy of the state of Idaho that all persons eighteen (18) years of age or older shall provide proof that they are lawfully present in the United States prior to receipt of certain public benefits.

(2) The intent of the legislature is not to regulate immigration but to control public expenditures for certain public benefits, not inconsistent with federal law.

[67-7901, added 2007, ch. 311, sec. 1, p. 877.]

67-7902. DEFINITIONS. As used in this chapter:

(1) "Emergency medical condition" shall have the same meaning as provided in 42 U.S.C. section 1396b(v) (3).

(2) "Federal public benefit" shall have the same meaning as provided in 8 U.S.C. section 1611(c).

(3) "State or local public benefit" shall have the same meaning as provided in 8 U.S.C. section 1621(c).

[67-7902, added 2007, ch. 311, sec. 1, p. 877.]

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.

Notwithstanding the provisions of this subsection (3), for the county indigent program, the limitations contained in section [31-3502](#) (18)B., Idaho Code, shall apply.

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

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

(b) Requiring the applicant to provide:

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

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

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

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

(v) A native American tribal document;

(vi) A copy of an executive office of immigration review, immigration judge or board of immigration appeals decision, granting asylee status;

(vii) A copy of an executive office of immigration review, immigration judge or board of immigration appeals decision, indicating that the individual may lawfully remain in the United States;

(viii) Any United States citizenship and immigration service issued document showing refugee or asylee status or that the individual may lawfully remain in the United States;

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

(x) A valid United States passport; and

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

(d) Requiring the applicant to attest, under penalty of perjury and on a form designated or established by the agency or the political subdivision, that:

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

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

(5) Notwithstanding the requirements of subsection (4) (b) of this section, the agency or political subdivision may establish by appropriate legal procedure such rules or regulations to ensure that certain individuals lawfully present in the United States receive authorized benefits including, but not limited to, homeless state citizens.

(6) For an applicant who has attested pursuant to subsection (4) (d) of this section stating that the applicant is an alien lawfully present in the United States, verification of lawful presence for federal public benefits or state or local public benefits shall be made through the federal systematic alien verification of entitlement program, which may be referred to as the "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 such verification of lawful presence is made, the attestation may be presumed to be proof of lawful presence for purposes of this section.

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

(b) Agencies or political subdivisions may adopt variations of the requirements of subsection (4) (d) of this section to improve efficiency or reduce delay in the verification process or to provide for adjudication of unique individual circumstances in which the verification procedures in this section would impose unusual hardship on a legal resident of this state; except that the variations shall be no less stringent than the requirements of subsection (4) (d) of this section.

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

(i) Guilty of a misdemeanor for the first and second offense; and

(ii) Guilty of a felony for each subsequent offense.

(7) An agency or political subdivision may accept as prima facie evidence of an applicant's lawful presence in the United States the information required in subsection (4) of this section, as may be modified by subsection (5) of this section, when issuing a professional license or a commercial license.

[67-7903, added 2007, ch. 311, sec. 1, p. 878; am. 2008, ch. 27, sec. 19, p. 58; am. 2009, ch. 177, sec. 20, p. 572; am. 2009, ch. 197, sec. 1, p. 633; am. 2011, ch. 280, sec. 1, p. 760; am. 2011, ch. 291, sec. 28, p. 812.]