

By: Zedler

H.B. No. 1132

A BILL TO BE ENTITLED

AN ACT

relating to verifying the eligibility of applicants for state public benefits.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 10, Government Code, is amended by adding Subtitle H to read as follows:

SUBTITLE H. PROVISION OF STATE PUBLIC BENEFITS

CHAPTER 2351. VERIFICATION OF ELIGIBILITY FOR STATE PUBLIC

BENEFITS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2351.001. DEFINITIONS. In this chapter:

(1) "State governmental entity" means this state or any agency of this state. The term does not include an agency of a political subdivision of this state.

(2) "State public benefit" means any public benefit that is:

(A) a state or local public benefit, as that term is defined by 8 U.S.C. Section 1621; and

(B) provided by a state governmental entity using appropriated funds of this state.

Sec. 2351.002. CONFLICTS WITH OTHER LAW. To the extent of a conflict between a provision of this chapter and a provision of any other law, the provision of this chapter prevails.

[Sections 2351.003-2351.050 reserved for expansion]

1 SUBCHAPTER B. VERIFICATION OF APPLICANTS' ELIGIBILITY FOR STATE

2 PUBLIC BENEFITS

3 Sec. 2351.051. COMPLIANCE WITH SUBCHAPTER REQUIRED BEFORE
4 PROVIDING STATE PUBLIC BENEFITS. A state governmental entity may
5 not provide a state public benefit to an individual until the
6 governmental entity complies with this subchapter.

7 Sec. 2351.052. DOCUMENTATION OF IDENTITY AND OF
8 CITIZENSHIP, NATIONALITY, OR LAWFUL PRESENCE REQUIRED. (a) Except
9 as provided by Section 2351.053, an applicant for a state public
10 benefit shall provide documentation of the applicant's:

11 (1) identity; and

12 (2) United States citizenship or nationality, or other
13 lawful presence in the United States.

14 (b) Except as provided by Section 2351.053, a state
15 governmental entity may not provide a state public benefit to an
16 applicant until the applicant provides the documentation required
17 by Subsection (a) in a form that complies with this subchapter,
18 subject to Section 2351.057.

19 (c) A state governmental entity shall implement this
20 section without regard to an applicant's race, religion, gender,
21 ethnicity, or national origin.

22 Sec. 2351.053. EXEMPTION FOR CERTAIN STATE PUBLIC BENEFITS.
23 Section 2351.052 does not apply to the following state public
24 benefits:

25 (1) a health care item or service that:

26 (A) is necessary to treat an emergency medical
27 condition, as defined by 42 U.S.C. Section 1396b(v)(3), of the

1 applicant; and

2 (B) is not related to an organ transplant
3 procedure;

4 (2) short-term, noncash, in-kind emergency disaster
5 relief;

6 (3) public health assistance for immunizations or for
7 testing and treatment of symptoms of communicable diseases;

8 (4) a program, service, or other assistance, including
9 assistance provided through a soup kitchen, crisis counseling and
10 intervention, and short-term shelter, that is specified by the
11 United States Attorney General, in the United States Attorney
12 General's sole and unreviewable discretion after consultation with
13 appropriate federal agencies and departments, that:

14 (A) delivers in-kind assistance at the community
15 level, including through a public or private nonprofit agency;

16 (B) does not condition the provision of
17 assistance, the amount of assistance provided, or the cost of the
18 assistance provided on the recipient's income or resources; and

19 (C) is necessary for the protection of life or
20 safety;

21 (5) prenatal care; or

22 (6) any other state public benefit for which lawful
23 presence in the United States is not required by a federal or state
24 law or regulation.

25 Sec. 2351.054. DOCUMENTATION OF IDENTITY AND OF CITIZENSHIP
26 OR NATIONALITY. (a) An applicant who is a United States citizen or
27 national may provide one of the following documents as proof of both

1 the applicant's identity and citizenship or nationality:

2 (1) a United States passport;

3 (2) a certificate of naturalization (federal Form
4 N-550 or N-570);

5 (3) a certificate of United States citizenship
6 (federal Form N-560 or N-561); or

7 (4) except as provided by Subsection (c), any other
8 document specified by 42 U.S.C. Section 1396b(x) and applicable
9 federal regulations as acceptable proof under the state Medicaid
10 program of both an applicant's citizenship or nationality and
11 identity.

12 (b) An applicant who is unable to provide one of the
13 documents listed in Subsection (a) may provide:

14 (1) as proof of citizenship or nationality, one of the
15 following documents:

16 (A) a certified copy of the applicant's
17 certificate of birth in the United States;

18 (B) a certification of birth abroad (federal Form
19 FS-545 or DS-1350);

20 (C) a United States citizen identification card
21 (federal Form I-97) issued by the former United States Immigration
22 and Naturalization Service;

23 (D) a report of birth abroad of a United States
24 citizen (federal Form FS-240); or

25 (E) except as provided by Subsection (c), any
26 other document specified by 42 U.S.C. Section 1396b(x) and
27 applicable federal regulations as acceptable proof under the state

1 Medicaid program of an applicant's citizenship or nationality; and

2 (2) as proof of identity, one of the following:

3 (A) a driver's license or a personal
4 identification card issued to the applicant by the Department of
5 Public Safety or a similar document issued to the applicant by an
6 agency of another state if the document contains a photograph of the
7 applicant or a physical description of the applicant sufficient to
8 establish the applicant's identity; or

9 (B) any other document specified by 42 U.S.C.
10 Section 1396b(x) and applicable federal regulations as acceptable
11 proof under the state Medicaid program of an applicant's identity.

12 (c) Notwithstanding any other law, a state governmental
13 entity may not accept as proof of citizenship an affidavit by an
14 individual with knowledge of the events or circumstances
15 establishing an applicant's claim of citizenship.

16 Sec. 2351.055. DOCUMENTATION OF IDENTITY AND LAWFUL
17 PRESENCE. An applicant who is not a United States citizen or
18 national may provide as proof of the applicant's identity and
19 lawful presence in the United States any documentation that is
20 acceptable under the state Medicaid program for those purposes.

21 Sec. 2351.056. VERIFICATION OF ELIGIBILITY OF CERTAIN
22 APPLICANTS FOR STATE PUBLIC BENEFITS REQUIRED. If an applicant for
23 a state public benefit provides documentation of the applicant's
24 lawful presence in the United States under Section 2351.055, the
25 state governmental entity shall verify eligibility for the benefit
26 using:

27 (1) the Systematic Alien Verification of Entitlement

1 (SAVE) program operated by the United States Department of Homeland
2 Security; or

3 (2) a successor program designated by that department.

4 Sec. 2351.057. ALTERNATE PROCEDURES FOR EFFICIENCY
5 AUTHORIZED. A state governmental entity may adopt rules that
6 provide procedures that vary from the procedures required by this
7 subchapter only if the governmental entity's procedures:

8 (1) will accurately verify the identity of an
9 applicant and that the applicant is a United States citizen or
10 national or is otherwise lawfully present in the United States and
11 is eligible for the state public benefit for which the applicant is
12 applying; and

13 (2) improve efficiency or reduce delay in verifying
14 that an applicant is eligible for a state public benefit, as
15 compared to the procedures required by this subchapter.

16 [Sections 2351.058-2351.100 reserved for expansion]

17 SUBCHAPTER C. REPORTING REQUIREMENTS

18 Sec. 2351.101. REPORTING OF ERRORS AND DELAYS. (a) A state
19 governmental entity shall report to the United States Department of
20 Homeland Security and to the secretary of state any errors made, and
21 any significant delays caused, by the eligibility verification
22 program used under Section 2351.056.

23 (b) The secretary of state shall monitor the frequency of
24 the errors and delays and submit a report not later than December 1
25 of each year to the legislature regarding the errors and delays.
26 The report must include a determination of whether the eligibility
27 verification program is wrongfully denying state public benefits to

1 individuals who are lawfully present in the United States.

2 Sec. 2351.102. ANNUAL COMPLIANCE REPORT. Not later than
3 December 1 of each year, each state governmental entity that
4 administers a state public benefit shall submit to the legislature
5 a report regarding the governmental entity's compliance with this
6 chapter.

7 SECTION 2. Subtitle H, Title 10, Government Code, as added
8 by this Act, applies to an application for a state public benefit
9 that is pending or filed on or after the effective date of this Act.

10 SECTION 3. This Act takes effect September 1, 2007.