

2015 Regular Session

HOUSE BILL NO. 538

BY REPRESENTATIVE HODGES

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

STATE AGENCIES: Requires verification of lawful presence in the United States to receive federal, state, or local public benefits from a state agency, department, or political subdivision

1 AN ACT

2 To enact R.S. 36:11, relative to public benefits requirements; to provide relative to certain  
3 requirements relative to the receipt of state and local public benefits; to provide for  
4 definitions; to require all state agencies, departments, or political subdivisions of the  
5 state to verify lawful presence for any applicant requesting certain public benefits;  
6 to prohibit discrimination; to provide for exceptions relative to verification of lawful  
7 presence; to provide for certain documents for proof of lawful presence; to provide  
8 for severability; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. R.S. 36:11 is hereby enacted to read as follows:

11 §11. Public benefits contingent upon lawful presence in United States; requirements  
12 of agencies, departments, and political subdivisions of the state; reporting

13 A. It is hereby declared to be the public policy of this state that all persons  
14 eighteen years of age or older shall provide proof that they are lawfully present in the  
15 United States prior to receipt of certain public benefits.

16 B. As used in this Section, the following terms have the meaning ascribed  
17 in this Subsection:

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

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

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

5           (4) "Systematic Alien Verification for Entitlements Program" and "SAVE  
6           Program" mean the program of that name of the United States Citizenship and  
7           Immigration Services Verification Division of the United States Department of  
8           Homeland Security which assists federal, state, and local benefit-issuing agencies,  
9           institutions, and licensing agencies in determining the immigration status of  
10          applicants for benefits, or any successor to that program.

11          C.(1) Except as provided in Subsection D of this Section or where exempted  
12          by federal law, each agency, department, and political subdivision of the state shall  
13          verify the lawful presence in the United States of each natural person eighteen years  
14          of age or older who applies for state or local public benefits or for federal public  
15          benefits for the applicant.

16          (2) Each agency, department, or political subdivision shall verify the lawful  
17          presence in the United States of each applicant by requiring the applicant to do all  
18          of the following:

19                (a) Produce a valid Louisiana driver's license, identification card issued by  
20                the state, United States military identification card or military dependent's  
21                identification card, a United States Coast Guard Merchant Mariner Credential, or a  
22                Native American tribal identification document.

23                (b) Execute an affidavit stating at least one of the following:

24                    (i) That he is a citizen of the United States or is a legal permanent resident  
25                    of this country.

26                    (ii) That he is lawfully present in the United States in accordance with  
27                    federal law.

28                (3)(a) For an applicant who has executed an affidavit stating that he is an  
29                alien lawfully present in the United States in accordance with Paragraph (2) of this

1        Subsection, verification of lawful presence for federal, state, or local public benefits  
2        shall be made through the federal SAVE Program. Until such verification of lawful  
3        presence is made, the affidavit may be presumed to be proof of lawful presence for  
4        purposes of this Section.

5                (b) Errors and significant delays on the part of the SAVE Program shall be  
6        reported to the United States Department of Homeland Security and to the United  
7        States Secretary of State in order to ensure that the application of the SAVE Program  
8        is not wrongfully denying benefits to legal residents of the state.

9                (4) Any person who knowingly makes a false, fictitious, or fraudulent  
10       statement or representation in an affidavit executed pursuant to Paragraph (2) of this  
11       Subsection shall be charged with a violation of R.S. 14:125, which provides for the  
12       crime of false swearing. Each such false, fictitious, or fraudulent statement or  
13       representation shall constitute a separate violation of R.S. 14:125, each time that a  
14       person receives a public benefit based upon such a statement or representation.

15               (5) Agencies, departments, and political subdivisions of this state may adopt  
16       variations of the requirements of Paragraph (2) of this Subsection to improve  
17       efficiency or reduce delay in the verification process or to provide for adjudication  
18       of unique individual circumstances in which the verification procedures provided in  
19       this Section would impose unusual hardship on a legal resident of the state except  
20       that the variations shall be no less stringent than the requirements of this Section.

21               (6) If the agency, department, or political subdivision determines that the  
22       person seeking the benefit is not lawfully present in the United States, it shall not  
23       provide the benefit to the person.

24               D. Verification of lawful presence in the United States shall not be required  
25       for any of the following purposes:

26               (a) Any purpose for which lawful presence in the United States is not  
27       required by law, ordinance, or rule.

1           (b) Obtaining health care items and services that are necessary for the  
2           treatment of an emergency medical condition of the person involved and that are not  
3           related to an organ transplant procedure.

4           (c) Short-term, noncash, in-kind emergency disaster relief.

5           (d) Public health assistance for immunizations with respect to immunizable  
6           diseases and for testing and treatment of symptoms of communicable diseases  
7           whether or not such symptoms are caused by a communicable disease.

8           (e) A program, service, or assistance such as that provided by a soup kitchen,  
9           a crisis counseling and intervention service, or short-term shelter specified by federal  
10          law or regulation that meets all of the following qualifications:

11          (i) Delivers in-kind services at the community level, including services  
12          through public or private nonprofit agencies.

13          (ii) Does not condition the provision of assistance, the amount of assistance  
14          provided, or the cost of assistance provided on the individual recipient's income or  
15          resources.

16          (iii) Provides services that are necessary for the protection of life or safety.

17          (f) Prenatal care.

18          E. The provisions of this Section shall be enforced without regard to race,  
19          religion, gender, ethnicity, or national origin.

20          F. It shall be unlawful for an agency, department, or political subdivision of  
21          this state to provide a federal, state, or local public benefit in violation of this  
22          Section.

23          G. Each state agency or department that administers a program that provides  
24          federal, state, or local public benefits shall provide a report addressing its compliance  
25          with the requirements of this Section to the Louisiana Legislature annually on or  
26          before January first.

27          Section 2. If any provision of this Act or the application thereof to any person or  
28          circumstance is held invalid, such invalidity shall not affect other provisions or applications

- 1 of the Act that can be given effect without the invalid provision or application. To this end,  
2 and in accordance with R.S. 24:175, the provisions of this Act are hereby declared severable.

## DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 538 Original

2015 Regular Session

Hodges

**Abstract:** Requires all agencies, departments, and political subdivisions of the state to verify lawful presence of any person applying for federal, state, or local public benefits.

Proposed law requires each state agency, department, and political subdivision, unless exempted by federal law, to verify the lawful presence in the U.S. of each person 18 years of age or older who applies for federal, state, or local public benefits.

Proposed law requires the agency, department, or political subdivision to require each applicant to provide any of the following to verify lawful presence:

- (1) Valid La. Driver's license or identification card.
- (2) U.S. Military identification card or military dependent's card, a U.S. Coast Guard Credential, or a Native American tribal identification card.
- (3) Execute and affidavit which states he is a citizen or legal permanent resident and is lawfully present in the U.S. in accordance with federal law.

Proposed law requires verification to be made through the Systematic Alien Verification for Entitlements (SAVE) Program, when an applicant executes an affidavit for verification purposes, and provides for reporting requirements for errors and delays made on part of the SAVE program.

Proposed law provides for violations for any person making a false, fictitious, or fraudulent statement or representation in an affidavit submitted for verification.

Proposed law allows for variations of the affidavit to improve efficiency or reduce delay in the verification process or to provide for adjudication in unique circumstances that may cause unusual hardship on a legal resident.

Proposed law prohibits any agency, department, or political subdivision from providing a benefit to a person who is not lawfully present in the U.S.

Proposed law provides for the following verification exemptions:

- (1) Where lawful presence is not required by state law or local ordinance or rule.
- (2) Obtaining healthcare items or services necessary for emergency medical treatment, excluding organ transplant procedures.
- (3) Short term, noncash in-kind emergency disaster relief.
- (4) Public health assistance for immunizations, testing, and treatment related to immunizable or communicable diseases.

- (5) Any program that provides food, counseling, short-term shelter and intervention services and meets certain requirements.

Proposed law provides that it is unlawful for the state agency, department, or political subdivision to provide benefits in violation of proposed law, or to discriminate when enforcing the provisions of proposed law.

Proposed law requires each agency, department, or political subdivision of the state to provide a compliance report annually to the Louisiana legislature on or before Jan. 1st of each year.

Proposed law provides for definitions and a severability clause.

(Adds R.S. 36:11)