

STATE OF OKLAHOMA

2nd Extraordinary Session of the 50th Legislature (2006)

HOUSE BILL 1218

By: Terrill

AS INTRODUCED

An Act relating to illegal immigration; creating the Oklahoma Taxpayer and Citizen Protection Act; providing short title; stating findings; amending 21 O.S. 2001, Section 1550.42, which relates to identification documentation; requiring certain proof or affidavit; prohibiting certain act and providing penalty therefor; requiring entities that issue identification documents to make certain written reports; amending 26 O.S. 2001, Section 4-112, as last amended by Section 5, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2005, Section 4-112), which relates to voter registration; requiring applicants for voter registration to submit evidence of United States citizenship; requiring rejection of application if evidence of citizenship is not included with application; requiring the State Election Board to compile and publish certain list; providing documents that are satisfactory evidence of citizenship; providing that certain persons are deemed to have provided satisfactory evidence of citizenship; providing that voter registration from another state or county is not satisfactory evidence of citizenship; providing authority and duties of the county election board; providing for destruction of certain documents; requiring applicants for public assistance program benefits to provide proof of United States citizenship or lawful presence in this country; providing manner of proof; providing for alternative affidavits; providing for temporary assistance for applicants providing affidavit; making certain action subject to certain criminal penalties; providing requirements for state agencies and political subdivisions; requiring certain written reports and providing penalties for failure to make reports; construing provisions in conformity with federal law; providing scope of invalid provisions or applications; exempting certain public assistance program benefits, medical services and treatment services from application of provisions; providing application to certain services, payments and benefits; providing for nondiscriminatory treatment; providing complaint procedure; providing for injunctive relief; requiring interagency cooperation; providing that certain persons shall not be eligible for postsecondary education benefits or resident tuition; repealing Section 1, Chapter 210, O.S.L. 2003 (70 O.S. Supp. 2005, Section 3242), which relates to eligibility for enrollment and resident tuition; providing for codification; providing for noncodification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Oklahoma Taxpayer and Citizen Protection Act".

SECTION 2. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

The State of Oklahoma finds that illegal immigration is causing economic hardship and lawlessness in this state, and that illegal immigration is encouraged when public agencies within this state provide public benefits without verifying immigration status. This state further finds that illegal immigrants have been harbored and sheltered in this state, and encouraged and induced to reside in this state through the issuance of identification cards without verification of immigration status, and that these practices impede and obstruct federal immigration law, undermine the security of our borders, and impermissibly restrict the privileges and immunities of the citizens of Oklahoma. Therefore, the State of Oklahoma declares that it is a compelling public interest of this state to discourage illegal immigration by requiring all public agencies within this state to cooperate with federal immigration authorities.

SECTION 3. AMENDATORY 21 O.S. 2001, Section 1550.42, is amended to read as follows:

Section 1550.42 A. The following entities may create, publish or otherwise manufacture an identification document, identification card, or identification certificate and may possess an engraved plate or other such devise for the printing of such identification; provided, the name of the issuing entity shall be clearly printed upon the face of the identification:

1. Businesses, companies, corporations, service organizations and federal, state and local governmental agencies for employee

identification which is designed to identify the bearer as an employee;

2. Businesses, companies, corporations and service organizations for customer identification which is designed to identify the bearer as a customer or member;

3. Federal, state and local government agencies for purposes authorized or required by law or any legitimate purpose consistent with the duties of such an agency, including but not limited to, voter identification cards, driver's licenses, nondriver's identification cards, passports, birth certificates and social security cards;

4. Any public school or state or private educational institution, as defined by Sections 1-106, 21-101 or 3102 of Title 70 of the Oklahoma Statutes, to identify the bearer as an administrator, faculty member, student or employee;

5. Any professional organization or labor union to identify the bearer as a member of the professional organization or labor union; and

6. Businesses, companies or corporations which manufacture medical-alert identification for the wearer thereof.

B. At the time of application for an identification document pursuant to paragraph 3 or 4 of subsection A of this section, an applicant shall provide affirmative proof that the applicant is a citizen of the United States or is lawfully present in the United States pursuant to federal immigration law. The affirmative proof of United States citizenship shall consist of any valid document or combination of valid documents provided for in Section 5 of this act. Affirmative proof of lawful presence in the United States shall consist of any document that establishes lawful presence pursuant to federal immigration law. An applicant who is unable to provide the proof required by this subsection may, alternatively, sign an affidavit under oath, attesting to either United States

citizenship or to classification by the United States as an alien lawfully admitted to the United States. The affidavit shall be in a form prescribed by the agency issuing the identification document. Any person who knowingly provides false information on the application or affidavit shall be subject to the penalties provided by Section 1550.41 of this title. An applicant who has provided the sworn affidavit in accordance with this subsection shall be eligible to receive a temporary identification document for either thirty (30) days or until such time that it is determined that the applicant is not lawfully present in the United States, whichever is earlier. Any agency, school or institution that issues identification documents, pursuant to paragraph 3 or 4 of subsection A of this section, shall report in writing to the Attorney General of this state and to the United States Department of Homeland Security or any other federal office or agency designated for immigration law enforcement by the United States Department of Homeland Security, the name of any person subject to the provisions of this section who has failed to provide proof of lawful presence in the United States.

SECTION 4. AMENDATORY 26 O.S. 2001, Section 4-112, as last amended by Section 5, Chapter 545, O.S.L. 2004 (26 O.S. Supp. 2005, Section 4-112), is amended to read as follows:

Section 4-112. A. The Secretary of the State Election Board shall devise and distribute a registration application form to be used for registering voters. Such registration application shall contain the following information: applicant's full name and date of birth, county and place of residence, and mailing address pursuant to the provisions of subsection B of this section; the names of political parties recognized by the laws of the State of Oklahoma with which the applicant may be affiliated; the Oklahoma driver license or identification card number if the applicant has been issued a current and valid driver license or identification

card by the Department of Public Safety, or if the applicant does not have a valid Oklahoma driver license or identification card, the last four digits of the voter's social security number; an oath of the eligibility of the applicant to become a registered voter; and such other information as may be deemed necessary by the Secretary to identify such applicant and to ascertain his or her eligibility. A voter registration application shall be signed by the applicant in writing. The applicant shall personally subscribe his or her name to or make his or her mark on the application, and no agent, representative or employee of the applicant may sign or mark on the applicant's behalf. The signature or mark must be the original, handwritten signature, autograph or mark of the applicant. No facsimile, reproduction, typewritten or other substitute signature, autograph or mark will be valid. Notwithstanding any law to the contrary, the Secretary of the State Election Board shall prescribe procedures to authorize any person incapable of personally making a mark to complete a voter registration application with assistance of an official of any voter registration agency or motor license agency specified in Sections 4-109.2 and 4-109.3 of this title. Persons who do not indicate a recognized political party or political organization on their registration application shall be designated as Independents. Any person may apply in writing to the Secretary of the State Election Board for permission to print, copy or otherwise prepare and distribute the registration applications designed by the Secretary of the State Election Board. The Secretary may revoke any such permission at any time. All registration applications shall be distributed to the public at no charge. The Secretary also shall prescribe procedures to accept and use federal registration applications as required by the National Voter Registration Act of 1993.

B. Applicants for voter registration shall submit evidence of United States citizenship with all applications in accordance with

Section 5 of this act and procedures prescribed by the Secretary of the State Election Board. Any application for voter registration shall be rejected if evidence of citizenship is not included with the application.

C. Applicants for voter registration or for change of voter registration in any way shall provide a residence address and, if different from the residence address, a mailing address. A residence address shall include the street address of the residence, including a full house number, street name or number, apartment or suite number, if applicable, and zip code. If a street address is not available for the residence, applicants shall provide such information as the State Election Board deems necessary for voter registration purposes. A post office box may not be given as a residence address. A mailing address, which shall include the city and zip code, may be the actual emergency notification or 911 address on file in the local community, a rural route and box number, a post office box number or a street address.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 4-112.1 of Title 26, unless there is created a duplication in numbering, reads as follows:

A. By September 1, 2006, the State Election Board shall compile and publish a list of approved documents, or a combination of approved documents, that establish satisfactory evidence of United States citizenship. Satisfactory evidence of citizenship shall include any of the following:

1. The number of the driver license or identification license of the applicant issued after October 1, 1996, by the Department of Public Safety or the equivalent governmental agency of another state within the United States if the agency indicates on the driver license or identification license of the applicant that the person has provided satisfactory proof of United States citizenship;

2. A legible photocopy of the birth certificate of the applicant that verifies birth in the United States, the District of Columbia, or a United States territory;

3. A legible photocopy of pertinent pages of the United States passport of the applicant identifying the applicant and the passport number of the applicant;

4. A legible photocopy of pertinent pages of the United States naturalization documents or the number of the certificate of naturalization of the applicant. If only the number of the certificate of naturalization is provided, the applicant shall not be included in the registration roll until the number of the certificate of naturalization is verified with the United States Immigration and Naturalization Service by the secretary of the county election board; and

5. The Bureau of Indian Affairs card number, tribal treaty card number or tribal enrollment number of the applicant.

B. The State Election Board may add to the list of approved documents provided for in subsection A of this section; however, any expansion of the list of approved documents shall not occur later than one hundred eighty (180) days prior to the date of a General Election.

C. In compiling or adding to the list of approved documents, the State Election Board shall give due consideration to facilitating voter registration by all citizens as well as deterrence to and prevention of fraudulent registration by unauthorized persons, and shall provide an opportunity for submission of public comments by interested citizens.

D. The State Election Board shall ensure that the list of approved documents conforms to all relevant federal and state laws protecting the voting rights of United States citizens.

E. Any person who is registered to vote in this state prior to June 1, 2006, is deemed to have provided satisfactory evidence of

citizenship and shall not be required to resubmit evidence of citizenship unless the person is registering in another county.

F. For the purposes of this section, proof of voter registration from another state or county is not satisfactory evidence of citizenship.

G. The county election board shall have the authority to determine if submitted documents provide satisfactory evidence of citizenship. The county election board shall reject any application for registration that is not accompanied by satisfactory evidence of United States citizenship. After a person has submitted satisfactory evidence of citizenship, the county election board shall indicate this information in the person's permanent voter file.

H. After two (2) years the county election board may destroy all documents that were submitted as evidence of citizenship.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 71 of Title 56, unless there is created a duplication in numbering, reads as follows:

A. At the time of application for public assistance program benefits, an applicant shall provide affirmative proof that the applicant is a citizen of the United States, or is lawfully present in the United States under federal immigration law. The affirmative proof of United States citizenship shall consist of any valid document or combination of valid documents recognized by the State Election Board pursuant to Section 5 of this act. Affirmative proof of lawful presence in the United States shall consist of any document that establishes lawful presence pursuant to federal immigration law. Except for state or local public benefits mandated by federal law under U.S.C., Section 1621, the state or local government agency responsible for administering a program of public assistance shall not provide public assistance program benefits to an applicant unless or until the applicant has met the requirements

of this section. A state or local government agency administering public assistance benefits shall not accept an identification card issued by a state or local government agency, including a driver license, to establish identity or determine eligibility for public assistance benefits unless the state or local government agency that issued the card has verified the immigration status of the applicant.

B. An applicant who cannot provide the proof required by subsection A of this section at the time of application may alternatively sign an affidavit under oath, attesting to either United States citizenship or to classification by the United States as an alien lawfully admitted for permanent residence, in order to receive temporary benefits. The affidavit shall be on or consistent with forms prepared by the state or local government agency administering the public assistance benefit program, and shall include the social security number of the applicant and an explanation of the penalties under state law for fraudulently obtaining public assistance benefits. An applicant who has provided the sworn affidavit required by this subsection is eligible to receive temporary public assistance program benefits as follows:

1. For ninety (90) days or until such time that it is determined that the applicant is not lawfully present in the United States, whichever is earlier; or

2. Indefinitely if the applicant provides a copy of a completed application for an Oklahoma birth certificate, or an application for a birth certificate from another state. An extension granted under this subsection shall terminate upon the receipt of a birth certificate of the applicant or a determination that a birth certificate does not exist because the applicant is not a United States citizen.

C. An applicant who knowingly provides false information on the affidavit or application for public assistance benefits is subject

to criminal penalties applicable in this state for fraudulently obtaining public assistance program benefits.

D. An agency of this state and all of the political subdivisions of this state, including local governments, that are responsible for the administration of state and local public benefits that are not federally mandated shall do all of the following:

1. Verify the identity of each applicant for those benefits and verify that the applicant is eligible for benefits as prescribed by this section;

2. Provide any other employee of this state or any of its political subdivisions with information to verify the immigration status of any applicant for those benefits and assist the employee in obtaining that information from federal immigration authorities; and

3. Refuse to accept any identification card issued by the state or any political subdivision of this state, including driver license, to establish identity or determine eligibility for those benefits unless the issuing authority has verified the immigration status of the applicant.

E. A state or local government agency shall report in writing to the Attorney General of this state, and to federal immigration authorities, the name and address of any applicant or beneficiary described in this section who has failed to provide proof of legal presence in the United States. An employee of a state or local government agency who knowingly and willfully fails to report violations of federal immigration law shall be guilty of a misdemeanor. A supervisor of an employee who knows of the failure of the employee to report and fails to direct the employee to make the report shall be guilty of a misdemeanor.

F. All provisions of this section that are relevant to immigration and the classification of immigration status shall be

construed in conformity with federal immigration law. If a provision of this section or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application.

G. This section does not apply to state or local public assistance program benefits that are excepted from verification of eligibility under federal law. The provisions of this section also shall not apply to emergency medical services or to treatment provided by the Department of Mental Health and Substance Abuse Services.

H. The provisions of this section shall apply to medical services or payments from a program administered by the Department of Human Services pursuant to Sections 3624.2 through 3624.6 of Title 36 of the Oklahoma Statutes, and any benefits for indigent care provided for in Title 56 of the Oklahoma Statutes except any state and local public benefit excepted from verification of eligibility under 8 U.S.C., Section 1621(b), including services necessary for the treatment of an emergency medical condition.

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

J. Any person who believes that the state or a local government agency has failed to comply with this section in the administration of public assistance program benefits may file a complaint in writing with the state or local government agency charged with administering the program.

1. The state or local government agency shall provide a written response within sixty (60) days of receipt of the complaint, or within thirty (30) days, if the complaint alleges an erroneous determination that the person is not lawfully present in the United States.

2. A person with reasonable cause to believe that a state or local government agency has failed to cease an act or practice in violation of this section may, within seventy-five (75) days after receipt of the written response of the agency to the complaint of the person made pursuant to paragraph 1 of this subsection, institute a proceeding for injunction or mandamus to remedy the violation giving rise to the complaint.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 72 of Title 56, unless there is created a duplication in numbering, reads as follows:

All state agencies administering programs of public assistance in this state shall cooperate with local governments and the United States Department of Homeland Security to develop a system to facilitate verification of lawful presence of an individual in the United States in furtherance of the Oklahoma Taxpayer and Citizen Protection Act. The system developed may include all or part of the Systematic Alien Verification Entitlements Program operated by the United States Department of Homeland Security.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3242.2 of Title 70, unless there is created a duplication in numbering, reads as follows:

An individual who is not lawfully present in the United States shall not be eligible on the basis of residence within the state for:

1. Any postsecondary education benefit, including, but not limited to, scholarships or financial aid; or
2. Resident tuition.

SECTION 9. REPEALER Section 1, Chapter 210, O.S.L. 2003 (70 O.S. Supp. 2005, Section 3242), is hereby repealed.

SECTION 10. Sections 1, 2, 3, 6, 7, 8 and 9 of this act shall become effective July 1, 2006.

SECTION 11. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

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