

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 HOUSE BILL 1803

By: Terrill

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6 AS INTRODUCED

7 An Act relating to illegal immigration; creating the
8 Oklahoma Taxpayer and Citizen Protection Act;
9 providing short title; stating findings; amending 21
10 O.S. 2001, Section 1550.42, which relates to
11 identification documentation; requiring certain proof
12 or affidavit; prohibiting certain act and providing
13 penalty therefor; requiring entities that issue
14 identification documents to make certain written
15 reports; amending 26 O.S. 2001, Section 4-112, as
16 last amended by Section 5, Chapter 545, O.S.L. 2004
17 (26 O.S. Supp. 2006, Section 4-112), which relates to
18 voter registration; requiring applicants for voter
19 registration to submit evidence of United States
20 citizenship; requiring rejection of application if
21 evidence of citizenship is not included with
22 application; requiring the State Election Board to
23 compile and publish certain list; providing documents
24 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

1 federal law; providing scope of invalid provisions or
2 applications; exempting certain public assistance
3 program benefits from application of provisions;
4 providing application to certain services, payments
5 and benefits; providing for nondiscriminatory
6 treatment; providing complaint procedure; providing
7 for injunctive relief; providing for garnishment of
8 income and withholding of state tax refunds for
9 certain persons; making certain persons responsible
10 for certain medically necessary services; providing
11 cause of action; providing subrogation rights;
12 requiring interagency cooperation; providing that
13 certain persons shall not be eligible for
14 postsecondary education benefits or resident tuition;
15 repealing Section 1, Chapter 210, O.S.L. 2003 (70
16 O.S. Supp. 2006, Section 3242), which relates to
17 eligibility for enrollment and resident tuition;
18 providing for codification; providing for
19 noncodification; providing effective dates; and
20 declaring an emergency.

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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

1 state further finds that illegal immigrants have been harbored and
2 sheltered in this state, and encouraged and induced to reside in
3 this state through the issuance of identification cards without
4 verification of immigration status, and that these practices impede
5 and obstruct federal immigration law, undermine the security of our
6 borders, and impermissibly restrict the privileges and immunities of
7 the citizens of Oklahoma. Therefore, the State of Oklahoma declares
8 that it is a compelling public interest of this state to discourage
9 illegal immigration by requiring all public agencies within this
10 state to cooperate with federal immigration authorities.

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

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

19 1. Businesses, companies, corporations, service organizations
20 and federal, state and local governmental agencies for employee
21 identification which is designed to identify the bearer as an
22 employee;

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

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

10 4. Any public school or state or private educational
11 institution, as defined by Sections 1-106, 21-101 or 3102 of Title
12 70 of the Oklahoma Statutes, to identify the bearer as an
13 administrator, faculty member, student or employee;

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

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

19 B. At the time of application for an identification document
20 pursuant to paragraph 3 or 4 of subsection A of this section, an
21 applicant shall provide affirmative proof that the applicant is a
22 citizen of the United States or is lawfully present in the United
23 States pursuant to federal immigration law. The affirmative proof
24 shall consist of any valid document or combination of valid

1 documents provided for in Section 5 of this act. An applicant who
2 is unable to provide the proof required by this subsection may,
3 alternatively, sign an affidavit under oath, attesting to either
4 United States citizenship or to classification by the United States
5 as an alien lawfully admitted to the United States. The affidavit
6 shall be in a form prescribed by the agency issuing the
7 identification document. Any person who knowingly provides false
8 information on the application or affidavit shall be subject to the
9 penalties provided by Section 1550.41 of this title. An applicant
10 who has provided the sworn affidavit in accordance with this
11 subsection shall be eligible to receive a temporary identification
12 document for either thirty (30) days or until such time that it is
13 determined that the applicant is not lawfully present in the United
14 States, whichever is earlier. Any agency, school or institution
15 that issues identification documents, pursuant to paragraph 3 or 4
16 of subsection A of this section, shall report in writing to the
17 Attorney General of this state and to the United States Department
18 of Homeland Security or any other federal office or agency
19 designated for immigration law enforcement by the United States
20 Department of Homeland Security, the name of any person subject to
21 the provisions of this section who has failed to provide proof of
22 lawful presence in the United States.

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1 SECTION 4. AMENDATORY 26 O.S. 2001, Section 4-112, as
2 last amended by Section 5, Chapter 545, O.S.L. 2004 (26 O.S. Supp.
3 2006, Section 4-112), is amended to read as follows:

4 Section 4-112. A. The Secretary of the State Election Board
5 shall devise and distribute a registration application form to be
6 used for registering voters. Such registration application shall
7 contain the following information: applicant's full name and date
8 of birth, county and place of residence, and mailing address
9 pursuant to the provisions of subsection B of this section; the
10 names of political parties recognized by the laws of the State of
11 Oklahoma with which the applicant may be affiliated; the Oklahoma
12 driver license or identification card number if the applicant has
13 been issued a current and valid driver license or identification
14 card by the Department of Public Safety, or if the applicant does
15 not have a valid Oklahoma driver license or identification card, the
16 last four digits of the voter's social security number; an oath of
17 the eligibility of the applicant to become a registered voter; and
18 such other information as may be deemed necessary by the Secretary
19 to identify such applicant and to ascertain his or her eligibility.
20 A voter registration application shall be signed by the applicant in
21 writing. The applicant shall personally subscribe his or her name
22 to or make his or her mark on the application, and no agent,
23 representative or employee of the applicant may sign or mark on the
24 applicant's behalf. The signature or mark must be the original,

1 handwritten signature, autograph or mark of the applicant. No
2 facsimile, reproduction, typewritten or other substitute signature,
3 autograph or mark will be valid. Notwithstanding any law to the
4 contrary, the Secretary of the State Election Board shall prescribe
5 procedures to authorize any person incapable of personally making a
6 mark to complete a voter registration application with assistance of
7 an official of any voter registration agency or motor license agency
8 specified in Sections 4-109.2 and 4-109.3 of this title. Persons
9 who do not indicate a recognized political party or political
10 organization on their registration application shall be designated
11 as Independents. Any person may apply in writing to the Secretary
12 of the State Election Board for permission to print, copy or
13 otherwise prepare and distribute the registration applications
14 designed by the Secretary of the State Election Board. The
15 Secretary may revoke any such permission at any time. All
16 registration applications shall be distributed to the public at no
17 charge. The Secretary also shall prescribe procedures to accept and
18 use federal registration applications as required by the National
19 Voter Registration Act of 1993.

20 B. Applicants for voter registration shall submit evidence of
21 United States citizenship with all applications in accordance with
22 Section 5 of this act and procedures prescribed by the Secretary of
23 the State Election Board. Any application for voter registration
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1 shall be rejected if evidence of citizenship is not included with
2 the application.

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

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

19 A. By September 1, 2007, the State Election Board shall compile
20 and publish a list of approved documents, or a combination of
21 approved documents, that establish satisfactory evidence of United
22 States citizenship. Satisfactory evidence of citizenship shall
23 include any of the following:
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1 1. The number of the driver license or identification license
2 of the applicant issued after October 1, 1996, by the Department of
3 Public Safety or the equivalent governmental agency of another state
4 within the United States if the agency indicates on the driver
5 license or identification license of the applicant that the person
6 has provided satisfactory proof of United States citizenship;

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

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

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

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

23 B. The State Election Board may add to the list of approved
24 documents provided for in subsection A of this section; however, any

1 expansion of the list of approved documents shall not occur later
2 than one hundred eighty (180) days prior to the date of a General
3 Election.

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

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

13 E. Any person who is registered to vote in this state prior to
14 June 1, 2007, is deemed to have provided satisfactory evidence of
15 citizenship and shall not be required to resubmit evidence of
16 citizenship unless the person is registering in another county.

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

20 G. The county election board shall have the authority to
21 determine if submitted documents provide satisfactory evidence of
22 citizenship. The county election board shall reject any application
23 for registration that is not accompanied by satisfactory evidence of
24 United States citizenship. After a person has submitted

1 satisfactory evidence of citizenship, the county election board
2 shall indicate this information in the person's permanent voter
3 file.

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

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

9 A. At the time of application for public assistance program
10 benefits, an applicant shall provide affirmative proof that the
11 applicant is a citizen of the United States, or is lawfully present
12 in the United States under federal immigration law. The affirmative
13 proof shall consist of any valid document or combination of valid
14 documents recognized by the State Election Board pursuant to Section
15 5 of this act. Except for state or local public benefits mandated
16 by federal law under U.S.C., Section 1621, the state or local
17 government agency responsible for administering a program of public
18 assistance shall not provide public assistance program benefits to
19 an applicant unless or until the applicant has met the requirements
20 of this section. A state or local government agency administering
21 public assistance benefits shall not accept an identification card
22 issued by a state or local government agency, including a driver
23 license, to establish identity or determine eligibility for public
24 assistance benefits unless the state or local government agency that

1 issued the card has verified the immigration status of the
2 applicant.

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

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

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

3 C. An applicant who knowingly provides false information on the
4 affidavit or application for public assistance benefits is subject
5 to criminal penalties applicable in this state for fraudulently
6 obtaining public assistance program benefits.

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

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

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

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

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

11 F. All provisions of this section that are relevant to
12 immigration and the classification of immigration status shall be
13 construed in conformity with federal immigration law. If a
14 provision of this section or its application to any person or
15 circumstance is held invalid, the invalidity does not affect other
16 provisions or applications of this act that can be given effect
17 without the invalid provision or application.

18 G. This section does not apply to state or local public
19 assistance program benefits that are excepted from verification of
20 eligibility under federal law.

21 H. The provisions of this section shall apply to medical
22 services or payments from a program administered by the Department
23 of Human Services pursuant to Sections 3624.2 through 3624.6 of
24 Title 36 of the Oklahoma Statutes, and any benefits for indigent

1 care provided for in Title 56 of the Oklahoma Statutes except any
2 state and local public benefit excepted from verification of
3 eligibility under 8 U.S.C., Section 1621(b), including services
4 necessary for the treatment of an emergency medical condition.

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

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

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

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

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

4 A. The Department of Human Services may garnish the wages,
5 salary, or other employment income of, and the Oklahoma Tax
6 Commission shall withhold amounts from state tax refunds to, any
7 person who:

8 1. Is required by court or administrative order to provide
9 health benefit plan coverage for the cost of health care services to
10 a child eligible for medical assistance under Medicaid;

11 2. Has received payment from a third party for the costs of
12 such services; and

13 3. Has not used such payment to reimburse, as appropriate, a
14 parent or guardian of the child or the provider of the services,
15 to the extent necessary to reimburse the Department of Human
16 Services for expenditures for such costs. Claims for current and
17 past-due child support shall take priority over any such claims for
18 the costs of such services.

19 B. Any person, organization, or corporation who knowingly and
20 willfully employs a non-United States citizen who otherwise is not a
21 resident of the state, shall be responsible for the cost of
22 providing medically necessary services for those persons or members
23 of the household who are medically indigent, if the medical
24 condition leading to medically necessary services arises during the

1 course of employment. A cause of action for reimbursement plus
2 costs and attorney fees shall accrue against an employer of the
3 medically indigent person to the state for services provided under
4 the state medical assistance plan, and to any county or health care
5 provider that provides health care services to the indigent person.
6 An employer who has verified the employment authorization of the
7 employee through the basic pilot program for employment
8 authorization verification operated by the United States Department
9 of Homeland Security, or a successor program, is not subject to this
10 subsection.

11 C. To the extent that payment for covered services has been
12 made by the Department of Human Services for health care items or
13 services furnished to an individual, in any case in which a third
14 party has a legal liability to make payments, the Department of
15 Human Services is considered to have acquired the rights of the
16 individual to payment by any other party for those health care items
17 or services.

18 SECTION 8. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 73 of Title 56, unless there is
20 created a duplication in numbering, reads as follows:

21 All state agencies administering programs of public assistance
22 in this state shall cooperate with local governments and the United
23 States Department of Homeland Security to develop a system to
24 facilitate verification of lawful presence of an individual in the

1 United States in furtherance of this act. The system developed may
2 include all or part of the Systematic Alien Verification
3 Entitlements Program operated by the United States Department of
4 Homeland Security.

5 SECTION 9. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 3242.2 of Title 70, unless there
7 is created a duplication in numbering, reads as follows:

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

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

14 SECTION 10. REPEALER Section 1, Chapter 210, O.S.L. 2003
15 (70 O.S. Supp. 2006, Section 3242), is hereby repealed.

16 SECTION 11. Sections 4 and 5 of this act shall become effective
17 June 1, 2007.

18 SECTION 12. Sections 1, 2, 3, 6, 7, 8 and 9 of this act shall
19 become effective July 1, 2007.

20 SECTION 13. It being immediately necessary for the preservation
21 of the public peace, health and safety, an emergency is hereby
22 declared to exist, by reason whereof this act shall take effect
23
24

1 and be in full force from and after its passage and approval.

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