

# HOUSE BILL 343

P3, L1  
HB 1234/09 – APP

0lr1877

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By: **Delegate O'Donnell**  
Introduced and read first time: January 27, 2010  
Assigned to: Appropriations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Public Benefits – Requirement of Proof of Lawful Presence**

3 FOR the purpose of requiring adults to provide proof of lawful presence in the United  
4 States before receiving certain public benefits; requiring State units and  
5 political subdivisions that provide certain public benefits to verify the lawful  
6 presence of certain persons in the United States; providing for certain  
7 exceptions; requiring certain applicants for certain public benefits to produce  
8 certain types of identification; requiring certain applicants for certain public  
9 benefits to execute a certain affidavit; authorizing State units and political  
10 subdivisions to adopt certain modifications to certain requirements under  
11 certain circumstances; prohibiting State units and political subdivisions from  
12 providing certain public benefits to certain persons; making it a misdemeanor to  
13 knowingly make a certain false, fictitious, or fraudulent statement or affidavit;  
14 providing certain penalties; requiring State units and political subdivisions to  
15 verify an applicant's lawful presence through a certain federal program;  
16 allowing a certain affidavit to be presumed to be proof of lawful presence under  
17 certain circumstances; requiring certain reports; defining certain terms; and  
18 generally relating to requiring proof of a person's lawful presence before receipt  
19 of certain public benefits.

20 BY adding to

21 Article – State Government  
22 Section 10–1301 through 10–1307 to be under the new subtitle “Subtitle 13.  
23 Proof of Lawful Presence to Receive Public Benefits”  
24 Annotated Code of Maryland  
25 (2009 Replacement Volume)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
27 MARYLAND, That the Laws of Maryland read as follows:

28 **Article – State Government**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
[Brackets] indicate matter deleted from existing law.



1     **SUBTITLE 13. PROOF OF LAWFUL PRESENCE TO RECEIVE PUBLIC BENEFITS.**

2     **10-1301.**

3           **(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS**  
4 **INDICATED.**

5           **(B) “EMERGENCY MEDICAL CONDITION” HAS THE MEANING STATED IN**  
6 **42 U.S.C. § 1396B(V)(3).**

7           **(C) “FEDERAL PUBLIC BENEFITS” HAS THE MEANING STATED IN 8**  
8 **U.S.C. § 1611.**

9           **(D) “POLITICAL SUBDIVISION” MEANS A COUNTY OR MUNICIPAL**  
10 **CORPORATION IN THE STATE.**

11           **(E) “SAVE PROGRAM” MEANS THE FEDERAL SYSTEMATIC ALIEN**  
12 **VERIFICATION OF ENTITLEMENT PROGRAM OPERATED BY THE UNITED STATES**  
13 **DEPARTMENT OF HOMELAND SECURITY.**

14           **(F) “STATE OR LOCAL PUBLIC BENEFITS” HAS THE MEANING STATED IN**  
15 **8 U.S.C. § 1621.**

16           **(G) “STATE UNIT” MEANS A PRINCIPAL DEPARTMENT, OFFICE,**  
17 **COMMISSION, COUNCIL, OR OTHER UNIT IN THE EXECUTIVE BRANCH OF STATE**  
18 **GOVERNMENT.**

19     **10-1302.**

20           **IT IS THE POLICY OF THE STATE THAT ALL ADULTS SHALL PROVIDE**  
21 **PROOF THAT THEY ARE LAWFULLY PRESENT IN THE UNITED STATES BEFORE**  
22 **RECEIVING PUBLIC BENEFITS.**

23     **10-1303.**

24           **(A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION OR AS**  
25 **EXEMPTED BY FEDERAL LAW, EACH STATE UNIT AND EACH POLITICAL**  
26 **SUBDIVISION OF THE STATE SHALL VERIFY THE LAWFUL PRESENCE IN THE**  
27 **UNITED STATES OF EACH ADULT WHO APPLIES FOR FEDERAL PUBLIC BENEFITS**  
28 **OR STATE OR LOCAL PUBLIC BENEFITS.**

29           **(B) VERIFICATION OF LAWFUL PRESENCE UNDER SUBSECTION (A) OF**  
30 **THIS SECTION MAY NOT BE REQUIRED FOR:**

1           (1) ANY PURPOSE FOR WHICH LAWFUL PRESENCE IN THE UNITED  
2 STATES IS NOT REQUIRED BY LAW, ORDINANCE, OR RULE;

3           (2) ANY HEALTH CARE SERVICES OR ITEMS NECESSARY TO TREAT  
4 A PERSON'S EMERGENCY MEDICAL CONDITION AND THAT ARE NOT RELATED TO  
5 ORGAN TRANSPLANT PROCEDURE;

6           (3) PRENATAL CARE;

7           (4) SHORT-TERM, NONCASH, IN-KIND EMERGENCY DISASTER  
8 RELIEF;

9           (5) PUBLIC HEALTH ASSISTANCE FOR IMMUNIZATIONS AND  
10 TREATING COMMUNICABLE DISEASE SYMPTOMS REGARDLESS OF WHETHER THE  
11 SYMPTOMS ARE CAUSED BY A COMMUNICABLE DISEASE; AND

12           (6) PROGRAMS, SERVICES, OR ASSISTANCE, INCLUDING SOUP  
13 KITCHENS, CRISIS COUNSELING AND INTERVENTION, AND SHORT-TERM  
14 SHELTER, SPECIFIED BY FEDERAL LAW OR REGULATION THAT:

15                   (I) DELIVER IN-KIND SERVICES AT THE COMMUNITY  
16 LEVEL, INCLUDING SERVICES THROUGH PUBLIC OR PRIVATE NONPROFIT  
17 AGENCIES;

18                   (II) DO NOT CONDITION THE PROVISION, AMOUNT, OR COST  
19 OF ASSISTANCE PROVIDED BASED ON THE PERSON'S INCOME OR RESOURCES;  
20 AND

21                   (III) ARE NECESSARY FOR THE PROTECTION OF LIFE OR  
22 SAFETY.

23           (C) EACH APPLICANT FOR FEDERAL PUBLIC BENEFITS OR STATE OR  
24 LOCAL PUBLIC BENEFITS SHALL BE REQUIRED TO:

25           (1) PRODUCE:

26                   (I) A VALID MARYLAND DRIVER'S LICENSE OR  
27 IDENTIFICATION CARD ISSUED BY THE MOTOR VEHICLE ADMINISTRATION;

28                   (II) A UNITED STATES MILITARY CARD OR MILITARY  
29 DEPENDENT'S IDENTIFICATION CARD;

30                   (III) A UNITED STATES MERCHANT MARINE CARD; OR

1 (IV) A NATIVE AMERICAN TRIBAL DOCUMENT; AND

2 (2) EXECUTE AN AFFIDAVIT STATING THAT THE PERSON IS:

3 (I) A UNITED STATES CITIZEN OR LEGAL PERMANENT  
4 RESIDENT; OR

5 (II) OTHERWISE LAWFULLY PRESENT IN THE UNITED  
6 STATES UNDER FEDERAL LAW.

7 (D) NOTWITHSTANDING SUBSECTION (C)(1) OF THIS SECTION, A STATE  
8 UNIT MAY ADOPT REGULATIONS AUTHORIZING THE USE OF ADDITIONAL FORMS  
9 OF IDENTIFICATION OR A WAIVER PROCESS TO ENSURE THE LAWFUL PRESENCE  
10 IN THE UNITED STATES OF ADULTS WHO ARE APPLYING FOR FEDERAL PUBLIC  
11 BENEFITS OR STATE OR LOCAL PUBLIC BENEFITS.

12 10-1304.

13 (A) A STATE UNIT OR POLITICAL SUBDIVISION OF THE STATE MAY NOT  
14 PROVIDE FEDERAL PUBLIC BENEFITS OR STATE OR LOCAL PUBLIC BENEFITS TO  
15 AN ADULT WHO IS NOT LAWFULLY PRESENT IN THE UNITED STATES.

16 (B) (1) A PERSON WHO KNOWINGLY MAKES A FALSE, FICTITIOUS, OR  
17 FRAUDULENT STATEMENT OR AFFIDAVIT UNDER § 10-1303(C) OF THIS  
18 SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO  
19 IMPRISONMENT NOT EXCEEDING 1 YEAR OR A FINE OF NOT MORE THAN \$1,000  
20 OR BOTH.

21 (2) EACH RECEIPT OF A PUBLIC BENEFIT CONSTITUTES A  
22 SEPARATE VIOLATION UNDER THIS SUBSECTION.

23 10-1305.

24 (A) FOR EACH APPLICANT WHO EXECUTES AN AFFIDAVIT UNDER §  
25 10-1303(C)(2) OF THIS SUBTITLE, A STATE UNIT OR POLITICAL SUBDIVISION  
26 SHALL VERIFY THE LAWFUL PRESENCE OF THE APPLICANT THROUGH THE  
27 SAVE PROGRAM OR ANY SUCCESSOR PROGRAM DESIGNATED BY THE UNITED  
28 STATES DEPARTMENT OF HOMELAND SECURITY.

29 (B) UNTIL COMPLETION OF THE VERIFICATION OF LAWFUL PRESENCE  
30 UNDER SUBSECTION (A) OF THIS SECTION, THE APPLICANT'S AFFIDAVIT MAY BE  
31 PRESUMED TO BE PROOF OF LAWFUL PRESENCE FOR PURPOSES OF THIS  
32 SECTION.

1 **10-1306.**

2 (A) EACH STATE UNIT AND POLITICAL SUBDIVISION MAY ADOPT  
3 MODIFICATIONS TO THE REQUIREMENTS OF § 10-1303(C) OF THIS SUBTITLE TO:

4 (1) IMPROVE EFFICIENCY OR REDUCE DELAYS IN THE  
5 VERIFICATION PROCESS; OR

6 (2) PROVIDE FOR THE ADJUDICATION OF UNIQUE INDIVIDUAL  
7 CIRCUMSTANCES IN WHICH THE VERIFICATION REQUIREMENTS UNDER THIS  
8 SUBTITLE WOULD IMPOSE AN UNDUE HARDSHIP ON A LEGAL RESIDENT OF THE  
9 STATE.

10 (B) ANY MODIFICATION TO A REQUIREMENT ADOPTED UNDER THIS  
11 SECTION SHALL BE AT LEAST AS STRINGENT AS THE REQUIREMENTS OF §  
12 10-1303 OF THIS SUBTITLE.

13 **10-1307.**

14 EACH STATE UNIT THAT PROVIDES FEDERAL PUBLIC BENEFITS OR STATE  
15 OR LOCAL PUBLIC BENEFITS SHALL:

16 (1) REPORT ANNUALLY TO THE GOVERNOR AND, IN ACCORDANCE  
17 WITH § 2-1246 OF THIS ARTICLE, THE GENERAL ASSEMBLY ON ITS  
18 COMPLIANCE WITH THE REQUIREMENTS OF THIS SUBTITLE; AND

19 (2) REPORT ERRORS AND SIGNIFICANT DELAYS BY THE SAVE  
20 PROGRAM TO THE UNITED STATES DEPARTMENT OF HOMELAND SECURITY.

21 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
22 October 1, 2010.