

1 HB121
2 126335-1
3 By Representatives Rich, Roberts, Shiver, Lee, Greer and
4 Williams (D)
5 RFD: Judiciary
6 First Read: 01-MAR-11

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, a person who applies for
9 public benefits using a false, fictitious, or
10 fraudulent document may be guilty of a crime under
11 certain theft or fraud statutes.

12 This bill would make it a specific crime for
13 a person who applies for certain public benefits to
14 use a false, fictitious, or fraudulent document and
15 would provide penalties.

16 This bill would make it a specific crime for
17 a person to possess, manufacture, distribute, or
18 sell a false, fictitious, or fraudulent document
19 for use in applying for certain public benefits and
20 would provide penalties.

21 This bill would require the Department of
22 Human Resources to report to the local office of
23 the district attorney any violations of this act.

24 This bill would require a person applying
25 for certain public benefits to provide proof of his
26 or her lawful presence in the United States under
27 certain conditions.

1 This bill would require the Department of
2 Industrial Relations and each state or local agency
3 to use E-Verify to determine the employment
4 eligibility of every person seeking employment and
5 would require the Department of Human Resources to
6 use E-Verify to determine the eligibility of every
7 person seeking welfare benefits in this state. This
8 bill would require those departments and agencies
9 to provide adequate training for its employees on
10 the use of E-Verify.

11 Amendment 621 of the Constitution of Alabama
12 of 1901, now appearing as Section 111.05 of the
13 Official Recompilation of the Constitution of
14 Alabama of 1901, as amended, prohibits a general
15 law whose purpose or effect would be to require a
16 new or increased expenditure of local funds from
17 becoming effective with regard to a local
18 governmental entity without enactment by a 2/3 vote
19 unless: it comes within one of a number of
20 specified exceptions; it is approved by the
21 affected entity; or the Legislature appropriates
22 funds, or provides a local source of revenue, to
23 the entity for the purpose.

24 The purpose or effect of this bill would be
25 to require a new or increased expenditure of local
26 funds within the meaning of the amendment. However,
27 the bill does not require approval of a local

1 governmental entity or enactment by a 2/3 vote to
2 become effective because it comes within one of the
3 specified exceptions contained in the amendment.
4

5 A BILL
6 TO BE ENTITLED
7 AN ACT
8

9 To make it a specific crime for a person who applies
10 for certain public benefits to use a false, fictitious, or
11 fraudulent document; to make it a specific crime for a person
12 to possess, manufacture, distribute, or sell a false,
13 fictitious, or fraudulent document for use in applying for
14 certain public benefits; to provide penalties; to require the
15 Department of Human Resources to report violations to the
16 district attorney; to require a person applying for certain
17 public benefits to provide proof of his or her lawful presence
18 in the United States under certain conditions; to require the
19 Department of Industrial Relations and each state or local
20 agency to use E-Verify to determine the employment eligibility
21 of every person seeking employment; to require the Department
22 of Human Resources to use E-Verify to determine the
23 eligibility of every person seeking welfare benefits; to
24 require each of those departments and agencies to provide
25 training for its employees on the use of E-Verify; and in
26 connection therewith to have as its purpose or effect the
27 requirement of a new or increased expenditure of local funds

1 within the meaning of Amendment 621 of the Constitution of
2 Alabama of 1901, now appearing as 111.05 of the Official
3 Recompilation of the Constitution of Alabama of 1901, as
4 amended.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. (a) Any person who applies for state or
7 local public benefits, as defined in 8 U.S.C. §1621, or for
8 federal public benefits, as defined in 8 U.S.C. §1611, that
9 are administered by an agency or a political subdivision of
10 this state using a false, fictitious, or fraudulent document,
11 upon conviction, shall be guilty of a Class C felony.

12 (b) Any person who possesses, manufactures,
13 distributes, or sells a false, fictitious, or fraudulent
14 document such as a fake Social Security card, a fake driver's
15 license, a fake birth certificate, or any other form of false
16 identification for use in applying for state or local public
17 benefits, as defined in 8 U.S.C. §1621, or for federal public
18 benefits, as defined in 8 U.S.C. §1611, that are administered
19 by an agency or a political subdivision of this state, upon
20 conviction, shall be guilty of a Class C felony.

21 (c) The Department of Human Resources shall report a
22 violation of this act to the local office of the district
23 attorney.

24 Section 2. (a) Except as provided in subsection (c)
25 or where exempted by federal law, every person who applies for
26 state or local public benefits, as defined in 8 U.S.C. §1621,
27 or for federal public benefits, as defined in 8 U.S.C. §1611,

1 that is administered by an agency or a political subdivision
2 of this state, shall provide proof of his or her lawful
3 presence in the United States with one of the following types
4 of identification documents:

5 (1) A valid, unexpired immigrant or non-immigrant
6 visa status for admission into the United States.

7 (2) A pending or approved application for asylum in
8 the United States.

9 (3) A document showing admission into the United
10 States on refugee status.

11 (4) A pending or approved application for temporary
12 protected status in the United States.

13 (5) A document showing approved deferred action
14 status.

15 (6) A pending application for adjustment of status
16 to legal permanent resident status or conditional resident
17 status.

18 (7) Any other document issued by the appropriate
19 United States authority showing the lawful presence in the
20 United States of a person.

21 (b) This section shall be enforced without regard to
22 race, religion, gender, ethnicity, or national origin.

23 (c) Proof of lawful presence under this section
24 shall not be required for any of the following:

25 (1) For any purpose for which lawful presence in the
26 United States is not restricted by law, ordinance, or
27 regulation.

1 (2) For assistance with health care items and
2 services that are necessary for the treatment of an emergency
3 medical condition, as defined in 42 U.S.C. §1395dd, of the
4 person involved and are not related to an organ transplant
5 procedure.

6 (3) For short-term, non-cash, in-kind emergency
7 disaster relief.

8 (4) For public health assistance for immunizations
9 with respect to diseases and for testing and treatment of
10 symptoms of communicable diseases whether or not the symptoms
11 are caused by a communicable disease.

12 (5) For programs, services, or assistance such as
13 soup kitchens, crisis counseling and intervention, and
14 short-term shelter specified by the United States Attorney
15 General, in the sole and unreviewable discretion of the United
16 States Attorney General after consultation with the
17 appropriate federal agencies and departments which do any of
18 the following:

19 a. Deliver in-kind services at the community level,
20 including through public or private nonprofit agencies.

21 b. Do not condition the provision of assistance, the
22 amount of assistance provided, or the cost of assistance
23 provided on the income or resources of the individual
24 recipient.

25 c. Provide services that are necessary for the
26 protection of life or safety.

1 (d) An agency or a political subdivision of this
2 state that provides public benefits pursuant to this section
3 may adopt rules which demonstrably improve the efficiency or
4 reduce delay in the verification process, or to provide for
5 adjudication of unique individual circumstances where the
6 verification procedures in this section would impose unusual
7 hardship on a legal resident of Alabama.

8 Section 3. (a) The Department of Industrial
9 Relations shall use E-Verify to determine the employment
10 eligibility of every person seeking employment in this state
11 through the department.

12 (b) The Department of Human Resources shall use
13 E-Verify to determine the eligibility of every person seeking
14 welfare benefits in this state.

15 (c) Each state or local agency shall use E-Verify to
16 determine the employment eligibility of every person seeking
17 employment in this state through the agency.

18 (d) The Department of Industrial Relations, each
19 state or local agency, and the Department of Human Resources
20 shall provide adequate training for its employees on the use
21 of E-Verify.

22 (e) For the purposes of this section, "E-Verify"
23 means the electronic verification of federal employment
24 authorization program of the Illegal Immigration Reform and
25 Immigrant Responsibility Act of 1996, P.L. 104-208, Division
26 C, Section 403(a); 8 U.S.C. §1324(a), operated by the United

1 States Department of Homeland Security, or its successor
2 program.

3 Section 4. This act shall not be construed to repeal
4 other laws. Whenever conduct prescribed by this act is also
5 prescribed by any other provision of law, the provision which
6 carries the more serious penalty shall be applied.

7 Section 5. Although this bill would have as its
8 purpose or effect the requirement of a new or increased
9 expenditure of local funds, the bill is excluded from further
10 requirements and application under Amendment 621, now
11 appearing as Section 111.05 of the Official Recompilation of
12 the Constitution of Alabama of 1901, as amended, because the
13 bill defines a new crime or amends the definition of an
14 existing crime.

15 Section 6. This act shall become effective on the
16 first day of the third month following its passage and
17 approval by the Governor, or its otherwise becoming law.