

Amendment No. 1 to SB1325

Yager  
Signature of Sponsor

AMEND Senate Bill No. 1325

House Bill No. 1379\*

by deleting all language after the enacting clause and by substituting instead the following:

**SECTION 1.** Tennessee Code Annotated, Title 4, is amended by adding the following language as a new, appropriately designated chapter:

**4-57-101.** This chapter shall be known and may be cited as the "**Eligibility Verification for Entitlements Act**".

**4-57-102.** As used in this chapter:

(1) "Affidavit" means a declaration in written or electronic form, whereby the person executing the declaration certifies the person's identity and the accuracy of information in the declaration; provided, that the declaration does not have to be notarized;

(2) "Federal public benefit" has the same meaning as in 8 U.S.C. § 1611;

(3) "Qualified alien" or "qualified alien status" has the same meaning as in 8 U.S.C. § 1641(b);

(4) "SAVE program" means the systematic alien verification for entitlements program created pursuant to the federal Immigration Reform and Control Act of 1986 and operated by the United States department of homeland security, or any successor program thereto; and

(5) "State or local public benefit" has the same meaning as in 8 U.S.C. § 1621.

**4-57-103.**

(a) Except where prohibited by federal law, an agency or political subdivision of this state may verify the eligibility of each applicant eighteen (18) years of age or older

who applies for a federal, state or local public benefit; provided, that such verifications of eligibility can be accomplished within existing resources.

(b) For purposes of this chapter, verification of eligibility by the agency or political subdivision means:

(1) Requiring an applicant to provide documentation of citizenship or qualified alien status;

(2) Requiring an applicant to execute an affidavit under penalty of perjury that the applicant is a citizen or a qualified alien; or

(3) Verifying that an applicant is a qualified alien by using the SAVE program.

(c) If an agency or political subdivision requires an applicant to provide documentation described in subdivision (b)(1) or execute an affidavit described in subdivision (b)(2), then such agency or political subdivision shall maintain a copy of such documentation or affidavits in a manner consistent with the agency's or political subdivision's rules, regulations or policies.

(d) If an agency or political subdivision determines that an applicant is not a United States citizen or qualified alien, then the agency or political subdivision may pursue any action applicable against the applicant pursuant to § 4-57-104 or § 4-57-105.

(e) If an agency or political subdivision determines that a recipient of a federal, state or local public benefit is not a United States citizen or qualified alien, and citizenship or qualified alien status is required for receipt of the benefit, then the agency or political subdivision may:

(1) Pursue any action applicable against the applicant pursuant to § 4-57-104 or § 4-57-105; and

(2) Terminate any recurring benefit in a manner consistent with the agency's or political subdivision's rules, regulations or policies.

(f) The verification process required by this section shall be enforced without regard to race, religion, gender, ethnicity or national origin.

**4-57-104.**

(a) Any natural person eighteen (18) years of age or older who knowingly and willfully provides or executes a false, fictitious, or fraudulent document of citizenship or qualified alien status when applying for a federal, state or local public benefit shall be liable under either:

(1) The Tennessee Medicaid False Claims Act, compiled in §§ 71-5-181—71-5-185; or

(2) The False Claims Act, compiled chapter 18 of this title.

(b) Any natural person who conspires to defraud the state or any political subdivision by getting a false claim allowed or paid to another person in violation of subsection (a) shall be liable under § 4-18-103(a)(3).

(c) An agency or political subdivision shall file, with the attorney general and reporter of this state, a complaint alleging a violation pursuant to subsections (a) or (b), as applicable.

(d) Any moneys collected pursuant to this section shall be deposited with and utilized by the applicable agency or political subdivision that filed a complaint pursuant to subsection (c). The applicable agency or political subdivision shall establish a fund for the deposit of such moneys, and shall use such moneys for the sole purpose of enforcing this chapter. Any interest accruing on investments and deposits of the fund shall be credited to such fund, shall not revert to any general fund, and shall be carried forward into each subsequent fiscal year.

**4-57-105.** An agency or political subdivision may file, with the United States attorney, a complaint alleging a criminal violation of 18 U.S.C. § 911, for each person who willfully provides

or executes a false, fictitious, or fraudulent document of citizenship when applying for a federal, state or local public benefit.

**4-57-106.** Each agency and political subdivision in this state shall include in any annual report to the general assembly as required by law, a report of its utilization of §§ 4-57-103 -- 4-57-105 through June 30 of each year, including, but not limited to, the resources needed in order to fully utilize §§ 4-57-103 -- 4-57-105.

**4-57-107.** Except where prohibited by federal law, no agency or political subdivision of this state shall be prohibited, or in any way restricted, from sending to or receiving from the Immigration and naturalization service information regarding the immigration status, lawful or unlawful, of an alien in the United States.

**4-57-108.** This chapter shall be interpreted so as to be fully consistent with all federal laws, including but not limited to federal laws regulating immigration, labor, and medicaid.

**SECTION 2.** Tennessee Code Annotated, Section 4-18-103(d), is amended by deleting the subsection in its entirety and by substituting instead the following language:

(d) This section does not apply to any controversy involving an amount of less than five hundred dollars (\$500) in value, unless the controversy arose from a violation of chapter 57, part 1 of this title. For purposes of this subsection (d), "controversy" means any one (1) or more false claims submitted by the same person in violation of this chapter.

**SECTION 3.**

(a) All affected state agencies are authorized to promulgate rules and regulations to effectuate the purposes of this act. All rules and regulations shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) A political subdivision may adopt an ordinance or a resolution to carry out the requirements of this act.

**SECTION 4.** If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to that end the provisions of this Act are declared to be severable.

**SECTION 5.** For purposes of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect October 1, 2011, the public welfare requiring it, and shall apply to all applications for benefits submitted to agencies or political subdivisions of this state on or after October 1, 2011.