

11-0012

May 1, 2011

California Attorney General Kamala Harris  
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MAY 26 2011

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

This is the written request for preparation of title and summary of the chief purposes and points of the proposed initiative measure, known as the California Taxpayer Protection Act of 2012. This text of the initiative is attached.

Proponent: Tirso Del Junco

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Proponent: Ted Hilton

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Proponent: Bill Siler

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SEC. 1.** This measure shall be known, and may be cited as the California Taxpayer Protection Act of 2012.

**SEC. 2.** Section 27 is added to the Government Code, to read:

**27. (a)** Notwithstanding any other provision of law and except as prohibited by federal law, every agency and political subdivision of this state shall verify the eligibility of any person fourteen years of age or older who has applied for state or local benefits, as defined in Section 1621 of Title 8 of the United States Code, or for federal public benefits as defined in Section 1611 of Title 8 of the United States Code, that are provided or funded by the state or any local government or political subdivision of this state, or by appropriated state or federal funds.

**(b) (1)** For the purposes of this section, verification of eligibility by the agency or political subdivision required to make such verification shall require that the applicant execute an affidavit under penalty of perjury and the laws of the State of California that:

**(A)** He or she is a United States citizen; or

**(B)** He or she is a qualified alien as defined in subsection (b) of Section 1641 of Subchapter IV of Chapter 14 of Title 8 of the United States Code.

**(2)** For an applicant who has executed the affidavit described in subparagraph (B), eligibility for benefits shall be verified through the Systematic Alien Verification for Entitlements (SAVE) Program operated by the United States Department of Homeland Security, or an equivalent program designated by the United States Department of Homeland Security. Until this eligibility verification is made, the affidavit shall be presumed to be proof of lawful presence for the purposes of this section.

**(c)** A person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit required by this section shall be subject to the penalties specified in Section 114 of the Penal Code.

**(d)** Verification of eligibility under the provisions of this section shall not be required for any purpose for which the state is prohibited from verifying lawful status under federal law.

(e) Each agency or department shall monitor its use of the SAVE Program for application verification errors and significant delays. Errors shall be reported to the Department of Justice by each agency or department.

(f) The California Health and Human Services Agency shall adopt uniform regulations, applicable to all applicants for federal, state or local public benefits, to provide for the adjudication of extraordinary individual circumstances under which compliance with the verification procedures imposed by this section would impose severe hardship on a citizen or lawful domiciliary of California.

(g) Any agency that accepts a completed application for a public benefit for which SAVE verification is required pursuant to this section, but is unable to obtain final verification of the applicant's status as an eligible qualified alien, shall promptly make a report identifying the ineligible applicant to the Department of Justice.

(1) For purposes of this subdivision, "ineligible applicant" shall include a parent, relative, or guardian, who is ineligible for a state or local public benefit or federal benefit who has applied on behalf of an eligible person and who is a member of the same household.

(2) The Department of Justice shall, not less than monthly, compile and forward to the United States Department of Homeland Security a copy of all reports received from state agencies pursuant to this section.

(h) It shall be unlawful and contrary to public policy for any agency of this state or a political subdivision thereof to provide or offer to provide any state or local benefit, as defined in Section 1621 of Title 8 of the United States Code or federal public benefit, as defined in Sections 1611 of Title 8 of the United States Code, in violation of this section.

SEC. 3. Chapter 3.5 (commencing with Section 653.65) is added to Title 15 of Part 1 of the Penal Code, to read:

CHAPTER 3.5. COOPERATIVE ENFORCEMENT OF FEDERAL IMMIGRATION LAW.

653.65 (a) When a law enforcement officer acting in the enforcement of a

state law or local ordinance has made a lawful stop, detention, or arrest of a person, that individual may be subject to an immigration status inquiry by the law enforcement officer who may, if there is reasonable suspicion that the individual is unlawfully present in the United States, request verification of the immigration status from federal immigration authorities to the fullest extent permitted under federal law.

(b) Upon notification that an arrested person is unlawfully present in the United States, the arresting agency shall immediately verify with the United States Department of Homeland Security whether an immigration detainer is to be issued for that person.

(c) Any state or local law enforcement agency having custody of an alien for whom a request for a detainer has been received from federal immigration authorities may not release the alien, unless otherwise directed by a court of competent jurisdiction, but shall transfer the alien into federal custody.

SEC. 4. Section 11057 is added to the Penal Code, to read:

11057. (a) The Department of Justice is authorized and directed to negotiate the terms of a memorandum of agreement (MOA), pursuant to 287 (g) of the United States Immigration and Nationality Act, between the State of California and the United States Department of Justice or United States Department of Homeland Security, providing for designated law enforcement officers to perform certain functions of federal immigration officers within the State of California.

(b) The MOA negotiated pursuant to subdivision (a) shall be signed on behalf of the state by the Attorney General.

(c) Each law enforcement agency shall designate to the Department of Justice one or more peace officers who shall be trained pursuant to the MOA.

(d) Training under the MOA may be provided to designated peace officers pursuant to the availability of funds appropriated for this purpose.

**SEC. 5. Section 11059 is added to the Penal Code, to read:**

**11059. (a) Notwithstanding any other provision of law, no official or agency of this state or political subdivision herein may prohibit or in any way restrict any peace officer from inquiring into the citizenship or immigration status of a person and from verifying that status, or exchanging information with any law enforcement agency for the following purposes:**

**(1) For the purpose of complying with a Secure Communities Memorandum of Agreement between the U.S. Department of Homeland Security, Immigration and Customs Enforcement, and the state.**

**(2) For any other purpose authorized by Sections 1373 and 1644 of Title 8 of the United States Code.**

**(b) No official or agency of this state, county, city, city and county, or other political subdivision of this state may adopt a law, ordinance, regulation or policy that limits or restricts the enforcement of criminal provisions of federal alien registration laws, as provided in Section 261 et seq. of the federal Immigration and Nationality Act, as amended.**

**(c) Enactment or enforcement of a law, ordinance, regulation, or policy in conflict with the provisions of this section shall be deemed to be an official act in violation of public policy, for which any citizen or lawful domiciliary of this state may seek appropriate declaratory and injunctive relief to prohibit the enactment or enforcement of that law, ordinance, regulation, or policy.**

**SEC. 6. Section 11200.1 is added to the Welfare and Institutions Code, to read:**

**11200.1. (a) Notwithstanding any other provision of law, commencing on the first day of the first calendar quarter after the effective date of this section, a child in a child-only CalWORKS case, or a child-only case under a successor program, where a non-work eligible adult due to immigration status or without United States**

citizenship or qualified alien status has applied for benefits on behalf of the child, shall be prohibited from receiving aid for more than two years.

SEC. 7. Section 14007.703 is added to the Welfare and Institutions Code, to read:

14007.703. (a) Each application for restricted scope Medi-Cal services for birth delivery or other related medical services shall include a fingerprint of the applicant. The applicant shall pay a reasonable fee, determined by the Department of Justice, to pay for the costs of processing the fingerprint. A report identifying the applicant shall be provided to the department.

(b) Notwithstanding any other law, any fingerprint shall be provided to any local, state, or federal governmental agency upon request.

SEC. 8. (a) The provisions of this act are severable. If any provision of this act or its application is held invalid, the invalid provision shall not affect other provisions or applications that can be given effect without the invalid provision or application.

(b) The provisions of this Act shall be implemented in a manner consistent with federal laws regulating immigration, and protecting the civil rights of all persons.