

NOTICE TO THE PUBLIC is hereby given that the following popular name and ballot title for a proposed constitutional amendment has been certified by the Arkansas Attorney General. Pursuant to Arkansas Constitution, Amendment 7, any party may contest the popular name and ballot title as an original action with the Arkansas Supreme Court after the Secretary of State has verified the petition as having the sufficient number of qualified electors' signatures to have the measure placed on the ballot at the next general election.

Notice of Certification of Sufficiency
Pursuant to A.C.A § 7-9-107

On October 16, 2009, this office received Opinion No. 2009-169 from the Attorney General for the State of Arkansas whereby he approved and certified a Popular Name and Ballot Title. Pursuant to A.C.A. §7-9-107 the Secretary of State shall also approve and certify the proposed Popular Name and Ballot Title as certified by the Attorney General.

Therefore, I, Charlie Daniels, Secretary of State, State of Arkansas, do hereby approve and certify the sufficiency of the following:

(Popular Name)

AN AMENDMENT TO PREVENT PERSONS UNLAWFULLY PRESENT
IN THE UNITED STATES FROM RECEIVING CERTAIN PUBLIC
BENEFITS.

(Ballot Title)

AN AMENDMENT REQUIRING STATE AGENCIES, COUNTIES, CITIES, AND OTHER LOCAL UNITS OF GOVERNMENT TO VERIFY THE LAWFUL PRESENCE IN THE UNITED STATES OF ANY PERSON FOURTEEN (14) YEARS OF AGE OR OLDER WHO HAS APPLIED FOR CERTAIN FEDERAL, STATE OR LOCAL PUBLIC BENEFITS; PROVIDING THAT PERSONS NOT LAWFULLY PRESENT IN THE UNITED STATES SHALL NOT BE ELIGIBLE ON THE BASIS OF RESIDENCE WITHIN ARKANSAS FOR ANY POSTSECONDARY EDUCATION BENEFIT, INCLUDING SCHOLARSHIPS, FINANCIAL AID, AND RESIDENT TUITION; PROHIBITING THE INITIAL REGISTRATION OR TITLING OF A VEHICLE UNLESS THE APPLICANT PRESENTS A VALID ARKANSAS DRIVERS LICENSE OR AN ARKANSAS IDENTIFICATION CARD; REQUIRING AN APPLICANT FOR A STATE OR LOCAL PUBLIC BENEFIT OR A FEDERAL PUBLIC BENEFIT ADMINISTERED BY A STATE AGENCY OR POLITICAL SUBDIVISION TO AFFIRM UNDER PENALTY OF PERJURY THAT HE OR SHE IS A UNITED STATES CITIZEN OR A QUALIFIED ALIEN; DEFINING QUALIFIED ALIEN CONSISTENT WITH FEDERAL LAW TO MEAN AN ALIEN WHO IS LAWFULLY ADMITTED FOR PERMANENT RESIDENCE UNDER THE FEDERAL IMMIGRATION AND NATIONALITY ACT OR WHO OTHERWISE MEETS ONE OF THE CRITERIA IN 8 U.S.C. 1641(b) AS IT EXISTED ON JANUARY 1, 2009; DEFINING FEDERAL PUBLIC BENEFIT AND STATE OR LOCAL PUBLIC BENEFIT TO MEAN THE SAME AS DEFINED IN FEDERAL LAW AS IT EXISTED ON JANUARY 1, 2009, WHICH INCLUDES GRANTS, CONTRACTS, LOANS, PROFESSIONAL AND COMMERCIAL LICENSES, AND PAYMENTS OR ASSISTANCE FOR CERTAIN BENEFITS INCLUDING RETIREMENT, WELFARE,

HEALTH, DISABILITY, HOUSING, POSTSECONDARY EDUCATION, FOOD ASSISTANCE, OR UNEMPLOYMENT; BUT EXCLUDING PROFESSIONAL LICENSES AND THE RENEWAL OF BUSINESS LICENSES FROM THE DEFINITION OF STATE OR LOCAL PUBLIC BENEFIT; PROVIDING THAT VERIFICATION OF LAWFUL PRESENCE SHALL NOT BE REQUIRED FOR ANY PURPOSE FOR WHICH LAWFUL PRESENCE IN THE UNITED STATES IS NOT RESTRICTED BY LAW, ORDINANCE, OR REGULATION TO OBTAIN A STATE OR LOCAL PUBLIC BENEFIT OR A FEDERAL PUBLIC BENEFIT THAT IS ADMINISTERED BY A STATE AGENCY OR POLITICAL SUBDIVISION; PROVIDING THAT VERIFICATION OF LAWFUL PRESENCE SHALL NOT BE REQUIRED FOR EMERGENCY MEDICAID, FOR SHORT-TERM, IN-KIND EMERGENCY DISASTER RELIEF, FOR PUBLIC HEALTH ASSISTANCE FOR IMMUNIZATIONS AND TESTING AND TREATMENT OF COMMUNICABLE DISEASE SYMPTOMS, OR FOR PROGRAMS THAT DELIVER IN-KIND SERVICES AT THE COMMUNITY LEVEL WITHOUT REGARD TO THE RECIPIENT'S INCOME AND THAT ARE NECESSARY FOR THE PROTECTION OF LIFE OR SAFETY; SUBJECTING ANY PERSON WHO KNOWINGLY FALSIFIES AN AFFIDAVIT TO CRIMINAL PENALTIES FOR FRAUDULENTLY OBTAINING PUBLIC BENEFITS; REQUIRING THE STATE AGENCY OR POLITICAL SUBDIVISION ADMINISTERING PUBLIC BENEFITS TO FILE A COMPLAINT WITH UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT IF AN AFFIDAVIT CONSTITUTES A FALSE CLAIM OF UNITED STATES CITIZENSHIP OR QUALIFIED ALIEN STATUS; REQUIRING EACH SUCH STATE AGENCY AND POLITICAL SUBDIVISION TO DOCUMENT THE TYPES AND DOLLAR AMOUNT OF BENEFITS PROVIDED TO PERSONS WHO ARE FOUND TO BE PRESENT IN THE UNITED STATES UNLAWFULLY AND TO FILE ANNUAL REPORTS WITH THE GENERAL ASSEMBLY.

(Text)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF ARKANSAS:

SECTION 1. Verification of citizenship when providing certain public benefits.

(a) As used in this section:

(1) "Federal public benefit" means the same as defined in 8 U.S.C. § 1611(c) as it existed on January 1, 2009;

(2) "Political subdivision" means any county, municipality, township, or other specific local unit of government;

(3) "Qualified alien" means an alien who, at the time the alien applies for, receives, or attempts to receive a state or local public benefit or a federal public benefit administered by a state agency or political subdivision, meets one (1) or more of the criteria established in 8 U.S.C. § 1641(b)

as it existed on January 1, 2009;

(4) "State agency" means any office, department, board, commission, bureau, division, public corporation, agency, or instrumentality of this state, including without limitation a public institution of higher education; and

(5)(A) Except as provided in subdivision (a)(5)(B) of this section, "state or local public benefit" means the same as defined in 8 U.S.C. § 1621(c) as it existed on January 1, 2009.

(B) (i) "State or local public benefit" shall include the initial application for any

business license granted under the laws of the State of Arkansas, excluding professional licenses.

(ii) A state agency or political subdivision shall not be required to comply with the provisions of Section 1 of this amendment for a renewal of any business or professional license granted under the laws of the State of Arkansas.

(b) Except as provided in subsection (d) of this section or when exempted by federal law, every

state agency or political subdivision shall verify the lawful presence in the United States of any person

fourteen (14) years of age or older who has applied for a state or local public benefit or for a federal public

benefit that is administered by a state agency or a political subdivision.

(c) This section shall be enforced without regard to race, religion, gender, ethnicity, or national

origin.

(d) Verification of lawful presence under this section shall not be required for:

(1) Any purpose for which lawful presence in the United States is not restricted by law, ordinance, or regulation to obtain a state or local public benefit or a federal public benefit that is

administered by a state agency or a political subdivision;

(2) Assistance for health care items and services that are necessary for the treatment of an emergency medical condition, as defined in 42 U.S.C. § 1396b(v)(3) as it existed on January 1,

2009, of the person involved and are not related to an organ transplant procedure;

(3) Short-term, noncash, in-kind emergency disaster relief;

(4) Public health assistance for immunizations with respect to diseases and for testing and treatment of symptoms of a communicable disease whether or not the symptoms are caused by a

communicable disease; or

(5) Programs, services, or assistance such as, but not limited to, soup kitchens, crisis counseling

and intervention, and short-term shelters specified by the United States Attorney General, in the sole

and unreviewable discretion of the United States Attorney General after consultation with appropriate federal agencies and departments, that:

(A) Deliver in-kind services at the community level, including through public or private nonprofit agencies;

(B) Do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the income or resources of the individual recipient; and

(C) Are necessary for the protection of life or safety.

(e) (1) Verification of lawful presence in the United States by the state agency or political subdivision required to make the verification shall require that the applicant execute an affidavit

under penalty of perjury that he or she is a:

(A) United States citizen; or

(B) Qualified alien.

(2) The state agency or political subdivision providing the state or local public benefit or federal public benefit that is administered by a state agency or a political subdivision shall provide

notary public services at no cost to the applicant.

(f) Each state agency or political subdivision shall document and maintain the types of benefits

and dollar amount of benefits provided to persons who are found to be present in the United States

unlawfully.

(g) (1) Any person who knowingly makes a false, fictitious, or fraudulent statement or representation in an affidavit executed under subsection (e) of this section is subject to criminal

penalties applicable in this state for fraudulently obtaining public benefits.

(2) If the affidavit constitutes a false claim of United States citizenship under 18 U.S.C. § 911 as it existed on January 1, 2009 or a false claim of qualified alien status, a complaint shall be filed

by the state agency or political subdivision requiring the affidavit with United States Immigration and Customs Enforcement.

(h) Each state agency or political subdivision that administers any program of state or local public

benefits or federal public benefits shall provide an annual report to the General Assembly concerning

compliance with this section, including without limitation the types and dollar amount of benefits provided

to persons who are found to be present in the United States unlawfully as documented under subsection (f) of

this section.

SECTION 2. An individual who is not lawfully present in the United States shall not be eligible on the basis of residence within the state for:

(1) Any postsecondary education benefit, including without limitation scholarships or financial aid; and

(2) Resident tuition.

SECTION 3. (a) The initial issuance of any vehicle registration or certificate of title shall not be made unless the applicant presents at the time of application a valid Arkansas driver's license or an Arkansas identification card.

(b) Section 3 of this amendment shall be supplemental to other provisions of Arkansas law concerning vehicle registration and certificates of title.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Office of the Secretary of State on this the 20th day of October, 2009.

Charlie Daniels
Secretary of State
State of Arkansas

Paid for by:

Mr. Chris Stewart
Stewart Law Firm
1020 West 4th Street, Suite 400
Little Rock, AR 72201