

Senate Bill 170

By: Senators Rogers of the 21st, Pearson of the 51st, Seabaugh of the 28th, Cagle of the 49th, Schaefer of the 50th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 16 of Title 40 of the Official Code of Georgia Annotated, relating to
2 administration of the Department of Motor Vehicle Safety, so as to create a procedure for
3 verifying any claim of legal domicile or residence in Georgia for any purpose for which legal
4 residence or domicile is required by law; to provide for exceptions; to provide for a list of
5 valid identification documents; to provide for the promulgation of regulations; to provide for
6 penalties; to provide for judicial review; to provide for related matters; to provide an
7 effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Chapter 16 of Title 40 of the Official Code of Georgia Annotated, relating to administration
11 of the Department of Motor Vehicle Safety, is amended by inserting immediately following
12 Code Section 40-16-2 three new Code sections to read as follows:

13 "40-16-2.1.

14 (a)(1) Except where otherwise required by state or federal law, a person who is
15 unlawfully present in the United States in violation of federal immigration law is not
16 legally resident or domiciled in Georgia.

17 (2) Except as provided in subsection (b) of this Code section or where exempted by
18 federal law, every agency of Georgia or a political subdivision thereof shall verify the
19 lawful presence in the United States of any natural person who has made a claim of legal
20 residence or domicile in Georgia for any purpose for which legal residence or domicile
21 is required by law, ordinance, or regulation.

22 (3) Verification of lawful presence under this Code section shall not be required for any
23 purpose for which legal residence or domicile in Georgia is not required by law,
24 ordinance, or regulation.

25 (b)(1) The following persons shall be deemed to be presumptively lawfully present in the
26 United States:

- 1 (A) A citizen of the United States; or
- 2 (B) An alien who presents a valid identification document that is included on the list
3 of documents to be created, maintained, and published by the department as proof of
4 lawful presence in the United States.
- 5 (2) A driver's license or identification card issued by any state which, on or after July 1,
6 2005, authorized such driver's license or identification card to be issued to persons not
7 lawfully present in the United States may not be accepted as evidence of lawful presence
8 in the United States.
- 9 (c) This Code section shall be enforced without regard to race, religion, gender, ethnicity,
10 or national origin.
- 11 (d)(1) Verification of lawful presence in the United States by the agency required to
12 make such verification shall occur as follows:
- 13 (A) By presentation of an unexpired valid document described in subsection (b) of this
14 Code section; or
- 15 (B) Where a document described in subsection (b) of this Code section has not been
16 presented, by a determination that the person for whom verification is required is a
17 United States citizen or national. A person may attest, under penalty of perjury, that he
18 or she is a United States citizen or national.
- 19 (2) A document or attestation may be verified by the agency or political subdivision to
20 detect identity or document fraud and false statements. Until such verification is made,
21 the document or attestation may be presumed to be proof of lawful presence for the
22 purposes of this Code section.
- 23 (3) In the case of an applicant for state or local public benefits, as defined in 8 U.S.C.
24 Section 1621, or of an applicant for federal public benefits, as defined in 8 U.S.C. Section
25 1611, that is administered by an agency of Georgia or a political subdivision thereof, the
26 verification described in paragraph (1) of this subsection shall be made through the
27 Systematic Alien Verification of Entitlement (SAVE) program operated by the United
28 States Department of Homeland Security or a successor program designated by the
29 Department of Homeland Security.
- 30 (e) In the case of a person arrested for a violation of a criminal statute, where verification
31 has not otherwise been made under a procedure described in subsection (d) of this Code
32 section, verification shall be made through a query to the Law Enforcement Support Center
33 (LESC) of the United States Department of Homeland Security or other office or agency
34 designated for that purpose by the Department of Homeland Security.
- 35 (f) Discovery by an agency of Georgia or political subdivision thereof that a person subject
36 to the verification requirements of this Code section has failed to establish lawful presence

1 in the United States shall be reported to the department and to the United States
2 Department of Homeland Security.

3 (g)(1) The department shall issue regulations, in accordance with Chapter 13 of Title 50,
4 the 'Georgia Administrative Procedure Act,' to implement the provisions of this Code
5 section.

6 (2) With the concurrence of the department, other agencies of Georgia and political
7 subdivisions thereof may adopt variations to such regulations to improve efficiency or
8 reduce delay in the verification process or to provide for adjudication of unique
9 individual circumstances where the verification procedures in subsection (d) of this Code
10 section would impose unusual hardship on a legal resident of Georgia.

11 40-16-2.2.

12 (a) It shall be unlawful for any person knowingly to present a personal identification
13 document issued by a foreign government as evidence or proof of legal residence or
14 domicile in Georgia for any purpose, unless such document is included on the published
15 list of documents created and maintained by the department as required by
16 subparagraph (b)(1)(B) of Code Section 40-16-2.1 as proof of lawful presence in the
17 United States.

18 (b) Any person who violates the provisions of this Code section shall be guilty of a
19 misdemeanor.

20 40-16-2.3.

21 (a) Any person who believes that an agency or political subdivision of Georgia has failed
22 to comply with the requirements of Code Section 40-16-2.1 may file a complaint in writing
23 with the agency or political subdivision. The agency or political subdivision shall provide
24 a response in writing within 60 days of receipt of the complaint or within 30 days in the
25 case of a complaint of an erroneous determination that the person is not a legal resident of
26 Georgia.

27 (b) A person with reasonable cause to believe that an agency or political subdivision of
28 Georgia is engaged in any act or practice in violation of the provisions of Code Section
29 40-16-2.1 may, within 60 days after the receipt of the written response to such person's
30 complaint under subsection (a) of this Code section, seek relief from any superior court in
31 Georgia having jurisdiction of the matter to remedy the failure giving rise to his or her
32 complaint, including mandamus, injunctive relief, and attorney fees and costs."

1 **SECTION 2.**

2 This Act shall become effective on July 1, 2005, and shall apply to proceedings initiated on
3 or after that date.

4 **SECTION 3.**

5 All laws and parts of laws in conflict with this Act are repealed.