



# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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Legislative Document

No. 1496

H.P. 1097

House of Representatives, April 20, 2011

### **An Act To Enforce Immigration Laws and Restrict Benefits to Legal Citizens**

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Received by the Clerk of the House on April 15, 2011. Referred to the Committee on Judiciary pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST  
Clerk

Presented by Representative CHASE of Wells.  
Cosponsored by Senator COLLINS of York and  
Representatives: CEBRA of Naples, CRAY of Palmyra, GILLWAY of Searsport, PILON of Saco, SARTY of Denmark, SHAW of Standish, WINSOR of Norway, Senator: SHERMAN of Aroostook.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 17-A MRSA §15-A, sub-§§2 and 3**, as amended by PL 2003, c. 657, §2,  
3 are further amended to read:

4 **2.** Any person who a law enforcement officer has probable cause to believe has  
5 committed or is committing a crime other than one listed under section 15, subsection 1,  
6 paragraph A, and to whom a law enforcement officer is authorized to deliver a summons  
7 pursuant to subsection 1, who intentionally fails or refuses to provide to that officer  
8 reasonably credible evidence of that person's correct name, address ~~or~~, date of birth or  
9 citizenship commits a Class E crime, if the person persists in the failure or refusal after  
10 having been informed by the officer of the provisions of this subsection. If that person  
11 furnishes the officer evidence of the person's correct name, address ~~and~~, date of birth and  
12 citizenship and the evidence does not appear to be reasonably credible, the officer shall  
13 attempt to verify the evidence as quickly as is reasonably possible. During the period the  
14 verification is being attempted, the officer may require the person to remain in the  
15 officer's presence for a period not to exceed 2 hours. During this period, if the officer  
16 reasonably believes that the officer's safety or the safety of others present requires, the  
17 officer may search for any dangerous weapon by an external patting of that person's outer  
18 clothing. If in the course of the search the officer feels an object that the officer  
19 reasonably believes to be a dangerous weapon, the officer may take such action as is  
20 necessary to examine the object, but may take permanent possession of the object only if  
21 it is subject to forfeiture. The requirement that the person remain in the presence of the  
22 officer does not constitute an arrest. After informing that person of the provisions of this  
23 subsection, the officer may arrest the person either if the person intentionally refuses to  
24 furnish any evidence of that person's correct name, address ~~or~~, date of birth or citizenship  
25 or if, after attempting to verify the evidence as provided for in this subsection, the officer  
26 has probable cause to believe that the person has intentionally failed to provide  
27 reasonably credible evidence of the person's correct name, address ~~or~~, date of birth or  
28 citizenship.

29 **3.** If, at any time subsequent to an arrest made pursuant to subsection 2, it appears  
30 that the evidence of the person's correct name, address ~~and~~, date of birth and citizenship  
31 was accurate, the person must be released from custody and any record of that custody  
32 must show that the person was released for that reason. If, upon trial for violating  
33 subsection 2, a person is acquitted on the ground that the evidence of the person's correct  
34 name, address ~~and~~, date of birth and citizenship was accurate, the record of acquittal must  
35 show that that was the ground.

36 **Sec. 2. 17-A MRSA §17, sub-§2**, as amended by PL 2003, c. 657, §4, is further  
37 amended to read:

38 **2.** Any person to whom a law enforcement officer is authorized to issue or deliver a  
39 summons pursuant to subsection 1 who intentionally fails or refuses to provide the officer  
40 reasonably credible evidence of the person's correct name, address ~~or~~, date of birth or  
41 citizenship commits a Class E crime, if the person persists in that failure or refusal after  
42 having been informed by the officer of the provisions of this subsection. If the person  
43 furnishes the officer evidence of that person's correct name, address ~~and~~, date of birth and

1 citizenship and the evidence does not appear to be reasonably credible, the officer shall  
2 attempt to verify the evidence as quickly as is reasonably possible. During the period that  
3 verification is being attempted, the officer may require the person to remain in the  
4 officer's presence for a period not to exceed 2 hours. During this period, if the officer  
5 reasonably believes that the officer's safety or the safety of others present requires, the  
6 officer may search for any dangerous weapon by an external patting of the person's outer  
7 clothing. If in the course of the search the officer feels an object that the officer  
8 reasonably believes to be a dangerous weapon, the officer may take such action as is  
9 necessary to examine the object, but may take permanent possession of the object only if  
10 it is subject to forfeiture. The requirement that the person remain in the presence of the  
11 officer does not constitute an arrest.

12 After informing the person of the provisions of this subsection, the officer may arrest the  
13 person either if the person intentionally refuses to furnish any evidence of that person's  
14 correct name, address ~~or~~, date of birth or citizenship or if, after attempting to verify the  
15 evidence as provided for in this subsection, the officer has probable cause to believe that  
16 the person has intentionally failed to provide reasonably credible evidence of the person's  
17 correct name, address ~~or~~, date of birth or citizenship.

18 **Sec. 3. 17-A MRSA §17, sub-§3**, as amended by PL 2003, c. 657, §4, is further  
19 amended to read:

20 **3.** If, at any time subsequent to an arrest made pursuant to subsection 2, it appears  
21 that the evidence of the person's correct name, address ~~and~~, date of birth and citizenship  
22 was accurate, the person must be released from custody and any record of that custody  
23 must show that the person was released for that reason. If, upon trial for violating  
24 subsection 2, a person is acquitted on the ground that the evidence of the person's correct  
25 name, address ~~and~~, date of birth and citizenship was accurate, the record of acquittal must  
26 show that that was the ground.

27 **Sec. 4. 17-A MRSA §18** is enacted to read:

28 **§18. Enforcement of immigration laws**

29 **1.** If a law enforcement officer is in lawful contact with a person and has a  
30 reasonable suspicion that the person is an alien who is unlawfully present in the United  
31 States, the law enforcement officer must make a reasonable attempt, when practicable, to  
32 determine the immigration status of that person. The person's immigration status must be  
33 verified with the Federal Government pursuant to 8 United States Code, Section 1373(c).

34 **2.** An alien who is unlawfully present in the United States and who has been  
35 convicted of a violation of state law or a municipal ordinance or has been discharged  
36 from imprisonment must be transferred immediately to the custody of the United States  
37 Immigration and Customs Enforcement or the United States Customs and Border  
38 Protection. A law enforcement officer shall securely transport an alien who is unlawfully  
39 present in the United States and who is in the custody of the State to a federal facility in  
40 this State or to a point of transfer into federal custody that is outside the jurisdiction of the  
41 law enforcement officer.

1           3. An official of a governmental entity may not be prohibited or restricted from  
2 sending, receiving or maintaining information relating to the immigration status of an  
3 individual or exchanging that information with a federal or governmental entity to:

4           A. Determine eligibility for a public benefit, service or license provided by the  
5 Federal Government or any other governmental entity;

6           B. Verify a claim of residence or domicile if determination of residence or domicile  
7 is required under the laws of this State or a judicial order issued pursuant to a civil or  
8 criminal proceeding in this State;

9           C. Confirm the identity of a detained person; or

10          D. If the person is an alien, determine whether the person is in compliance with the  
11 federal registration laws prescribed by the federal Immigration and Nationality Act,  
12 Title II, Chapter 7.

13          **Sec. 5. 22 MRSA §3104, sub-§15** is enacted to read:

14           15. Residency. Notwithstanding any other provisions of this section and section  
15 3104-A to the contrary, beginning January 1, 2012 the department may not provide food  
16 supplement program benefits to an applicant who is not a legal resident of the United  
17 States and a resident of this State.

18          **Sec. 6. 22 MRSA §3195** is enacted to read:

19          **§3195. Residency**

20           Beginning January 1, 2012, it is a condition of eligibility for assistance under this  
21 chapter that an applicant be a legal resident of the United States and a resident of this  
22 State. The department shall require an applicant for assistance under this chapter to  
23 demonstrate that the applicant meets this condition. The department shall adopt rules to  
24 implement this section. Rules adopted pursuant to this section are routine technical rules  
25 under Title 5, chapter 375, subchapter 2-A.

26          **Sec. 7. 22 MRSA §3769-D** is enacted to read:

27          **§3769-D. Residency**

28           Beginning January 1, 2012, it is a condition of eligibility for assistance under this  
29 chapter that an applicant be a legal resident of the United States and a resident of this  
30 State. The department shall require an applicant for assistance under this chapter to  
31 demonstrate that the applicant meets this condition. The department shall adopt rules to  
32 implement this section. Rules adopted pursuant to this section are routine technical rules  
33 under Title 5, chapter 375, subchapter 2-A.

34          **Sec. 8. 22 MRSA §4301, sub-§3**, as enacted by PL 1983, c. 577, §1, is amended  
35 to read:

36           3. Eligible person. "Eligible person" means a ~~person~~ legal resident of the United  
37 States and a resident of this State who is qualified to receive general assistance from a

1 municipality according to standards of eligibility determined by the municipal officers  
2 whether or not that person has applied for general assistance.

3

### **SUMMARY**

4 This bill requires a law enforcement officer who legally detains a person for a  
5 suspected criminal or civil violation to require that person to provide proof of citizenship  
6 in addition to name, address and date of birth. If a law enforcement officer has a  
7 reasonable suspicion that the person is an illegal alien, the officer must attempt to  
8 determine the immigration status of the person. A person illegally in the United States  
9 who has been convicted of a crime in this State, following completion of the punishment,  
10 must be transferred immediately to the custody of the United States Immigration and  
11 Customs Enforcement or the United States Customs and Border Protection.

12 This bill also requires an applicant for state assistance under the Temporary  
13 Assistance for Needy Families program, the MaineCare program or the food stamp  
14 program or for municipal assistance to be a legal resident of the United States and a  
15 resident of this State.