

**HOUSE . . . . . No. 2195**

The Commonwealth of Massachusetts

PRESENTED BY:

***Bradley H. Jones, Jr.***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to restrictions on public benefits.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>
<i>James J. Lyons, Jr.</i>	<i>18th Essex</i>
<i>Marc T. Lombardo</i>	<i>22nd Middlesex</i>
<i>Donald F. Humason, Jr.</i>	<i>4th Hampden</i>
<i>Geoff Diehl</i>	<i>7th Plymouth</i>
<i>Randy Hunt</i>	<i>5th Barnstable</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>
<i>Shaunna O'Connell</i>	<i>3rd Bristol</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>
<i>Richard Bastien</i>	<i>2nd Worcester</i>
<i>Daniel K. Webster</i>	<i>6th Plymouth</i>
<i>Donald H. Wong</i>	<i>9th Essex</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>
<i>Angelo L. D'Emilia</i>	<i>8th Plymouth</i>
<i>Kevin J. Kuros</i>	<i>8th Worcester</i>
<i>Ryan C. Fattman</i>	<i>18th Worcester</i>
<i>Sheila C. Harrington</i>	<i>1st Middlesex</i>
<i>Matthew A. Beaton</i>	<i>11th Worcester</i>

<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>
<i>Nicholas A. Boldyga</i>	<i>3rd Hampden</i>
<i>Steven L. Levy</i>	<i>4th Middlesex</i>
<i>David T. Vieira</i>	<i>3rd Barnstable</i>
<i>Paul K. Frost</i>	<i>7th Worcester</i>
<i>George T. Ross</i>	<i>2nd Bristol</i>
<i>Paul Adams</i>	<i>17th Essex</i>
<i>Bradford Hill</i>	<i>4th Essex</i>
<i>George N. Peterson, Jr.</i>	<i>9th Worcester</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>

**HOUSE . . . . . No. 2195**

By Mr. Jones of North Reading, a petition (accompanied by bill, House, No. 2195) of Viriato Manuel deMacedo and others for legislation to establish penalties for illegal residents providing fraudulent information to obtain public assistance. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to restrictions on public benefits.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. The General Laws are hereby amended by inserting after chapter 117A the  
2 following new chapter:--

3 Chapter 117B

4 Restrictions on Public Benefits

5 Section 1. Definitions. As used in this chapter the following terms shall have the  
6 following meanings unless the context clearly requires otherwise:-

7 “Emergency Medical Condition,” the same meaning as provided in section 1396b (v) (3)  
8 of Title 42 of the United States Code.

9 “Federal Public Benefits,” the same meaning as provided in section 1611 of Title 8 of the  
10 United States Code.

11           “State Public Benefits,” the same meaning as provided in section 1621 of Title 8 of the  
12 United States Code.

13           Section 2. (a) Except as otherwise provided in subsection (d) or where exempted by  
14 federal law, on and after January 1, 2012, each agency or political subdivision of the  
15 commonwealth shall verify the lawful presence in the United States of every natural person 18  
16 years of age or older who applies for state public benefits or for federal public benefits which are  
17 for the benefit of the applicant.

18           (b) This section shall be enforced without regard to race, religion, gender, ethnicity, or  
19 national origin.

20           (c) Verification of lawful presences in the United States shall not be required: for any  
21 purpose for which lawful presence in the United States is not required by law, ordinance, or rule;  
22 for obtaining health care items and services that are necessary for the treatment of an emergency  
23 medical condition of the person involved and are not related to an organ transplant procedure; for  
24 short-term, non-cash, in-kind emergency disaster relief; for public health assistance for  
25 immunization with respect to diseases and for testing and treatment of symptoms of  
26 communicable diseases; for programs, services, or assistance, such as soup kitchens, crisis  
27 counseling and intervention, and short-term shelter specified by federal laws or regulations that:  
28 deliver in-kind services at the community level, including services through public or private  
29 nonprofit agencies; do not condition the provision of assistance, the amount of assistance  
30 provided, or the cost of assistance provided on the individual recipient’s income or resources;  
31 and are necessary for the protection of life or safety or; for parental care.

32 (d) (1) An agency or a political subdivision shall verify the lawful presence in the United  
33 States of each applicant 18 years of age or older for federal public benefits or state public  
34 benefits by requiring the applicant to produce a valid Massachusetts driver's license or a  
35 Massachusetts identification card, issued pursuant to section 8 of chapter 90, and section 540 of  
36 the Code of Massachusetts Regulations 2.06 (3) (b); a United States military card or military  
37 dependent's identification card; or a United States Coast Guard Merchant Mariner card; or a  
38 Native American tribal document.

39 (2) If such documentation as required in paragraph (1) of subsection (d) cannot be  
40 lawfully produced, the applicant must execute a notarized affidavit stating that the applicant is a  
41 United States citizen or legal permanent resident; or that the applicant is otherwise lawfully  
42 present in the United States pursuant to federal law.

43 (e) Notwithstanding the requirements of paragraph (1) of subsection (d), the  
44 commissioner of the department of revenue may issue an emergency rule, to be effective until  
45 July 1, 2011, providing for additional forms of identification or a waiver process to ensure that  
46 an individual seeking benefits pursuant to this section proves lawful presence in the United  
47 States. This subsection and all emergency rules authorized hereunder shall cease to be effective  
48 as of July 1, 2011.

49 (f) A person who knowingly makes a false, fictitious, or fraudulent statement or  
50 representation in an affidavit executed pursuant to paragraph (2) of subsection (d) shall pay a  
51 fine of not less than \$1,000 and not more than \$5,000, or shall be sentenced to serve not less than  
52 6 months nor more than 1 year in a house of corrections. Each time a person receives a public  
53 benefit based upon such a statement or representation they make shall constitute a separate

54 violation of this section. (g) (1) For an applicant who has executed an affidavit stating that he or  
55 she is an alien lawfully present in the United States, verification of lawful presence for federal  
56 public benefits or state or local public benefits shall be made through the Federal Systematic  
57 Alien Verification for Entitlement program, referred to in this section as the “SAVE program”,  
58 operated by the United States Department of Homeland Security. Until such verification of  
59 lawful presence is made, the affidavit may be presumed to be proof of lawful presence for  
60 purposes of this section.

61 (2) The secretary of each executive office of the commonwealth shall promulgate  
62 regulations to ensure that each agency or political subdivision has access to the SAVE program  
63 by way of the executive office under which it is organized. Each executive office shall be  
64 responsible for the verification through the SAVE program of all its sub-agencies. Each  
65 executive office shall enter into a memorandum of understanding or any other requirement  
66 pursuant to the SAVE program in order to streamline the verification process. Each executive  
67 office shall keep an account of all applications submitted through its subdivisions and transfer  
68 back to its subdivisions any costs on an annual basis.

69 (h) Agencies or political subdivisions of the commonwealth may adopt variations of the  
70 requirements of this section to improve efficiency or reduce delay in the verification process or  
71 to provide for adjudication of unique circumstances in which the verification procedures in the  
72 section would impose unusual hardship on a legal resident of the commonwealth; provided, that  
73 the variations shall be no less stringent than the requirements of this section, including provisions  
74 to timely execute notarized affidavits.

75 (i) It shall be unlawful for an agency or political subdivision of the commonwealth to  
76 provide a federal public benefit or state or local public benefit in violation of this section. Each  
77 agency or department that administers a program that provides state or local public benefits shall  
78 provide an annual report with respect to its compliance with this section to the auditor and to the  
79 House and Senate chairs of the joint committee on state administration and regulatory oversight.

80 (j) Errors and significant delays by the SAVE program shall be reported to the United  
81 States Department of Homeland Security which monitors the SAVE program and its verification  
82 application errors and significant delays and report yearly on such errors and delays, to ensure  
83 that the application of the SAVE program is not wrongfully denying benefits to legal residents of  
84 the State.

85 Section 3. If any provision of this act or the application thereof to any person or  
86 circumstance is held by any court to be unconstitutional or otherwise invalid, such invalidity  
87 shall not affect other provisions or applications of this act that can be given effect without the  
88 invalid provision or application, and to this end the provisions of the section are declared to be  
89 severable.