

HOUSE SUBSTITUTE FOR
SENATE BILL NO. 494

A bill to amend 1972 PA 222, entitled

"An act to provide for an official personal identification card; to provide for its form, issuance and use; to regulate the use and disclosure of information obtained from the card; to prescribe the powers and duties of the secretary of state; to prescribe fees; to prescribe certain penalties for violations; and to provide an appropriation for certain purposes,"

by amending sections 1, 2, 3, 5, and 7 (MCL 28.291, 28.292, 28.293, 28.295, and 28.297), section 1 as amended by 2008 PA 31, section 2 as amended by 2008 PA 40, section 3 as amended by 1998 PA 2, section 5 as amended by 2004 PA 149, and section 7 as amended by 2009 PA 101.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. (1) A person who is a resident of this state may apply
2 to the department of state for an official state personal
3 identification card. Upon application, the applicant shall supply a

1 photographic identity document, a birth certificate or other
2 nonphotographic identity document, and other sufficient documents
3 as the secretary of state may require to verify the identity and
4 citizenship of the applicant. If an applicant for an official state
5 personal identification card is not a citizen of the United States,
6 the applicant shall supply a photographic identity document and
7 other sufficient documents to verify the identity of the applicant
8 and the applicant's legal presence in the United States under
9 subsection (3). The documents required under this subsection shall
10 include the applicant's full legal name, date of birth, ~~and~~
11 address, and residency and demonstrate that the applicant is a
12 citizen of the United States or is legally present in the United
13 States. If the applicant's full legal name differs from the name of
14 the applicant that appears on a document presented under this
15 subsection, the applicant shall present documents to verify his or
16 her current full legal name. An application for a state personal
17 identification card shall be made in a manner prescribed by the
18 secretary of state and shall contain the applicant's full legal
19 name, date of birth, residence address, height, sex, eye color,
20 signature, intent to be an organ donor, other information required
21 or permitted on the official state personal identification card
22 and, only to the extent to comply with federal law, the applicant's
23 social security number. The applicant may provide a mailing address
24 if the applicant receives mail at an address different from his or
25 her residence address.

26 (2) The secretary of state shall not issue an official state
27 personal identification card to a person who holds an operator's or

1 chauffeur's license issued under the Michigan vehicle code, 1949 PA
2 300, MCL 257.1 to 257.923, unless the license has been suspended,
3 revoked, or restricted.

4 (3) If the applicant is not a citizen of the United States,
5 the applicant shall provide, **AND THE DEPARTMENT SHALL VERIFY,**
6 documents demonstrating his or her legal presence in the United
7 States. ~~A person legally present in the United States includes, but~~
8 ~~is not limited to, a person authorized by the United States~~
9 ~~government for employment in the United States, a person with~~
10 ~~nonimmigrant status authorized under federal law, and a person who~~
11 ~~is the beneficiary of an approved immigrant visa petition or an~~
12 ~~approved labor certification. **NOTHING IN THIS ACT SHALL OBLIGATE OR**~~
13 ~~**BE CONSTRUED TO OBLIGATE THIS STATE TO COMPLY WITH TITLE II OF THE**~~
14 ~~**REAL ID ACT OF 2005, PUBLIC LAW 109-13.**~~ The secretary of state
15 shall ~~MAY~~ adopt rules under the administrative procedures act of
16 1969, 1969 PA 306, MCL 24.201 to 24.328, as are necessary for the
17 administration of this subsection. A determination by the secretary
18 of state that an applicant is not legally present in the United
19 States may be appealed under section 631 of the revised judicature
20 act of 1961, 1961 PA 236, MCL 600.631.

21 (4) The secretary of state shall not disclose a social
22 security number obtained under subsection (1) to another person
23 except for use for 1 or more of the following purposes:

24 (a) Compliance with 49 USC 31301 to 31317 and regulations and
25 rules related to this act.

26 (b) To carry out the purposes of section 466(a) of the social
27 security act, 42 USC 666, in connection with matters relating to

1 paternity, child support, or overdue child support.

2 (c) With the department of community health, for comparison
3 with vital records maintained by the department of community health
4 under part 28 of the public health code, 1978 PA 368, MCL 333.2801
5 to 333.2899.

6 (d) As otherwise required by law.

7 (5) The secretary of state shall not display a person's social
8 security number on the person's official state personal
9 identification card.

10 (6) A requirement under this section to include a social
11 security number on an application does not apply to an applicant
12 who demonstrates he or she is exempt under law from obtaining a
13 social security number.

14 (7) The secretary of state, with the approval of the state
15 administrative board created under 1921 PA 2, MCL 17.1 to 17.3, may
16 enter into agreements with the United States government to verify
17 whether an applicant for an official state personal identification
18 card under this section who is not a citizen of the United States
19 is authorized under federal law to be present in the United States.

20 (8) The secretary of state shall not issue an official state
21 personal identification card to a person holding an official state
22 personal identification card issued by another state without
23 confirmation that the person is terminating or has terminated the
24 official state personal identification card issued by the other
25 state.

26 (9) The secretary of state shall do all of the following:

27 (a) Ensure the physical security of locations where official

1 state personal identification cards are produced and the security
2 of document materials and papers from which official state personal
3 identification cards are produced.

4 (b) Subject all persons authorized to manufacture or produce
5 official state personal identification cards and all persons who
6 have the ability to affect the identity information that appears on
7 official state personal identification cards to appropriate
8 security clearance requirements. The security requirements of this
9 subdivision and subdivision (a) may require that official state
10 personal identification cards be manufactured or produced in this
11 state.

12 (c) Provide fraudulent document recognition programs to
13 department of state employees engaged in the issuance of official
14 state personal identification cards.

15 Sec. 2. (1) The official state personal identification card
16 shall contain the following:

17 (a) An identification number permanently assigned to the
18 person.

19 (b) The full legal name, date of birth, sex, residence
20 address, height, weight, eye color, digital photographic image,
21 signature of **OR VERIFICATION AND CERTIFICATION BY** the applicant, **AS**
22 **DETERMINED BY THE SECRETARY OF STATE**, and expiration date of the
23 official state personal identification card.

24 (c) An indication that the identification card contains 1 or
25 more of the following:

26 (i) The blood type of the person.

27 (ii) Immunization data of the person.

1 (iii) Medication data of the person.

2 (iv) A statement that the person is deaf.

3 (d) In the case of a holder of an official state personal
4 identification card who has indicated his or her wish to
5 participate in the anatomical gift donor registry under part 101 of
6 the public health code, 1978 PA 368, MCL 333.10101 to 333.10123, a
7 heart insignia on the front of the official state personal
8 identification card.

9 (e) Physical security features designed to prevent tampering,
10 counterfeiting, or duplication of the official state personal
11 identification card for fraudulent purposes.

12 (2) In conjunction with the application for an official state
13 personal identification card, the secretary of state shall do all
14 of the following:

15 (a) Provide the applicant with all of the following:

16 (i) Information explaining the applicant's right to make an
17 anatomical gift in the event of death under part 101 of the public
18 health code, 1978 PA 368, MCL 333.10101 to 333.10123, and in
19 accordance with this section.

20 (ii) Information describing the donor registry program
21 maintained by Michigan's federally designated organ procurement
22 organization or its successor organization under section 10120 of
23 the public health code, 1978 PA 368, MCL 333.10120. The information
24 required under this subparagraph includes the address and telephone
25 number of Michigan's federally designated organ procurement
26 organization or its successor organization as defined in section
27 10120 of the public health code, 1978 PA 368, MCL 333.10120.

1 (iii) Information giving the applicant the opportunity to have
2 his or her name placed on the registry described in subparagraph
3 (ii) .

4 (b) Provide the applicant with the opportunity to specify on
5 his or her official state personal identification card that he or
6 she is willing to make an anatomical gift in the event of death
7 pursuant to part 101 of the public health code, 1978 PA 368, MCL
8 333.10101 to 333.10123, and in accordance with this section.

9 (c) Inform the applicant that, if he or she indicates to the
10 secretary of state under this section a willingness to have his or
11 her name placed on the donor registry described in subdivision
12 (a) (ii) , the secretary of state will mark the applicant's record for
13 the donor registry.

14 (3) The secretary of state may fulfill the requirements of
15 subsection (2) by 1 or more of the following methods:

16 (a) Providing printed material enclosed with a mailed notice
17 for the issuance or renewal of an official state personal
18 identification card.

19 (b) Providing printed material to an applicant who personally
20 appears at a secretary of state branch office.

21 (c) Through electronic information transmittals for
22 applications processed by electronic means.

23 (4) The secretary of state shall prescribe the form of the
24 **OFFICIAL STATE PERSONAL** identification card. The secretary of state
25 shall designate on the identification card a space where the
26 applicant may place a sticker or decal of the uniform size as the
27 secretary may specify to indicate that the cardholder carries a

1 separate emergency medical information card. The sticker or decal
2 may be provided by any person, hospital, school, medical group, or
3 association interested in assisting in implementing the emergency
4 medical information card, but shall meet the specifications of the
5 secretary of state. The sticker or decal also may be used to
6 indicate that the cardholder has designated 1 or more patient
7 advocates in accordance with section 5506 of the estates and
8 protected individuals code, 1998 PA 386, MCL 700.5506. The
9 emergency medical information card, carried separately by the
10 cardholder, may contain the information described in subsection
11 (2)(c), information concerning the cardholder's patient advocate
12 designation, other emergency medical information, or an indication
13 as to where the cardholder has stored or registered emergency
14 medical information. An original identification card or the renewal
15 of an existing identification card issued to a person less than 21
16 years of age shall be portrait or vertical in form and an
17 identification card issued to a person 21 years of age or over
18 shall be landscape or horizontal in form. Except as otherwise
19 required in this act, other information required on the
20 identification card under this act may appear on the identification
21 card in a form prescribed by the secretary of state.

22 (5) The identification card shall not contain a fingerprint or
23 finger image of the applicant.

24 (6) Except as provided in this subsection, the secretary of
25 state shall retain and use a person's digital photographic image
26 and signature described in subsection (1)(b) only for programs
27 administered by the secretary of state as specifically authorized

1 by law. A person's digital photographic image or signature shall
2 only be used as follows:

3 (a) By a federal, state, or local governmental agency for a
4 law enforcement purpose authorized by law.

5 (b) By the secretary of state for a use specifically
6 authorized by law.

7 (c) The secretary of state shall forward to the department of
8 state police the images of persons required to be registered under
9 the sex offenders registration act, 1994 PA 295, MCL 28.721 to
10 28.736, upon the department of state police providing the secretary
11 of state an updated list of those persons.

12 (d) As necessary to comply with a law of this state or the
13 United States.

14 (7) If a person presents evidence of statutory blindness as
15 provided in 1978 PA 260, MCL 393.351 to 393.368, and is issued or
16 is the holder of an official state personal identification card,
17 the secretary of state shall mark the person's identification card
18 in a manner that clearly indicates that the cardholder is legally
19 blind.

20 (8) The secretary of state shall maintain a record of an
21 individual who indicates a willingness to have his or her name
22 placed on the donor registry described in subsection (2) (a) (ii) .
23 Information about a person's indication of a willingness to have
24 his or her name placed on the donor registry that is obtained by
25 the secretary of state and forwarded under this section is exempt
26 from disclosure under section 13(1) (d) of the freedom of
27 information act, 1976 PA 442, MCL 15.243. As required in section

1 10120 of the public health code, 1978 PA 368, MCL 333.10120, the
2 secretary of state shall establish and maintain the donor registry
3 in a manner that complies with that section and that provides
4 electronic access, including, but not limited to, the transfer of
5 data to this state's federally designated organ procurement
6 organization or its successor organization, tissue banks, and eye
7 banks.

8 (9) An official state personal identification card may contain
9 an identifier for voter registration purposes.

10 (10) An official state personal identification card shall
11 contain information appearing in electronic or machine readable
12 codes needed to conduct a transaction with the secretary of state.
13 The information shall be limited to the person's identification
14 card number, birth date, expiration date, full legal name, date of
15 transaction, gender, address, state of issuance, and other
16 information necessary for use with electronic devices, machine
17 readers, or automatic teller machines and shall not contain the
18 person's driving record or other personal identifier. The
19 identification card shall identify the encoded information.

20 (11) An official state personal identification card shall be
21 issued only upon authorization of the secretary of state, and shall
22 be manufactured in a manner to prohibit as nearly as possible the
23 ability to reproduce, alter, counterfeit, forge, or duplicate the
24 identification card without ready detection.

25 (12) Except as otherwise provided in this act, an applicant
26 shall pay a fee of \$10.00 to the secretary of state for each
27 original or renewal **OFFICIAL STATE PERSONAL** identification card

1 issued. The department of treasury shall deposit the fees received
2 and collected under this section in the state treasury to the
3 credit of the general fund. The legislature shall appropriate the
4 fees credited to the general fund under this act to the secretary
5 of state for the administration of this act. Appropriations from
6 the Michigan transportation fund created under section 10 of 1951
7 PA 51, MCL 247.660, shall not be used to compensate the secretary
8 of state for costs incurred and services performed under this
9 section.

10 (13) An original or renewal official state personal
11 identification card expires on the birthday of the person to whom
12 it is issued in the fourth year following the date of issuance or
13 on the date the person is no longer considered to be legally
14 present in the United States under section 1, whichever is earlier.
15 The secretary of state shall not issue an official state personal
16 identification card under this act for a period greater than 4
17 years. Except as provided in this subsection, a person may apply
18 for a renewal of an official state personal identification card by
19 mail or by other methods prescribed by the secretary of state. The
20 secretary of state shall require renewal in person by a person
21 required under section 5a of the sex offenders registration act,
22 1994 PA 295, MCL 28.725a, to maintain a valid operator's or
23 chauffeur's license or official state personal identification card.

24 (14) The secretary of state shall waive the fee under this
25 section if the applicant is any of the following:

26 (a) A person 65 years of age or older.

27 (b) A person who has had his or her operator's or chauffeur's

1 license suspended, revoked, or denied under the Michigan vehicle
2 code, 1949 PA 300, MCL 257.1 to 257.923, because of a mental or
3 physical infirmity or disability.

4 (c) A person who presents evidence of statutory blindness as
5 provided in 1978 PA 260, MCL 393.351 to 393.368.

6 (d) A person who presents other good cause for a fee waiver.

7 (e) A person who wishes to add or remove a heart insignia
8 described in subsection (1)(d).

9 (15) A person who has been issued an official state personal
10 identification card shall apply for a renewal official state
11 personal identification card if the person changes his or her name.

12 (16) A person who has been issued an official state personal
13 identification card shall apply for a corrected identification card
14 if he or she changes his or her residence address. The secretary of
15 state may correct the address on an identification card by a method
16 prescribed by the secretary of state. A fee shall not be charged
17 for a change of residence address.

18 (17) Except as otherwise provided in subsections (15) and
19 (16), a person who has been issued an official state personal
20 identification card may apply for a renewal official state personal
21 identification card for 1 or more of the following reasons:

22 (a) The person wants to change any information on the
23 identification card.

24 (b) An identification card issued under this act is lost,
25 destroyed, or mutilated, or becomes illegible.

26 (18) A person may indicate on an official state personal
27 identification card in a place designated by the secretary of state

1 his or her blood type, emergency contact information, immunization
2 data, medication data, or a statement that the person is deaf.

3 (19) If an applicant provides proof to the secretary of state
4 that he or she is a minor who has been emancipated under 1968 PA
5 293, MCL 722.1 to 722.6, the official state personal identification
6 card shall bear the designation of the individual's emancipated
7 status in a manner prescribed by the secretary of state.

8 (20) The secretary of state shall inquire of each person who
9 applies for or who holds an official state personal identification
10 card, in person or by mail, whether he or she agrees to participate
11 in the anatomical gift donor registry under part 101 of the public
12 health code, 1978 PA 368, MCL 333.10101 to 333.10123. A person who
13 has agreed to participate in the donor registry shall not be
14 considered to have revoked that agreement solely because the
15 person's official state personal identification card has expired.
16 Enrollment in the donor registry constitutes a legal agreement that
17 remains binding and in effect after the donor's death regardless of
18 the expressed desires of the deceased donor's next of kin who may
19 oppose the donor's anatomical gift.

20 (21) A valid official state personal identification card
21 presented by the person to whom the card is issued shall be
22 considered the same as a valid state of Michigan driver license
23 when identification is requested except as otherwise specifically
24 provided by law.

25 Sec. 3. (1) A person who falsely represents information upon
26 application for an official state personal identification card is
27 guilty of a felony punishable by imprisonment for not less than 1

1 year but not more than 5 years, or by a fine of not less than
2 \$500.00 but not more than \$5,000.00, or both.

3 (2) A person who is convicted of a second violation of this
4 section is guilty of a felony punishable by imprisonment for not
5 less than 2 years or more than 7 years, or by a fine of not less
6 than \$1,500.00 or more than \$7,000.00, or both.

7 (3) A person who is convicted of a third or subsequent
8 violation of this section is guilty of a felony punishable by
9 imprisonment for not less than 5 years or more than 15 years, or by
10 a fine of not less than \$5,000.00 or more than \$15,000.00, or both.

11 **(4) THE DEPARTMENT MAY CANCEL THE OFFICIAL STATE PERSONAL**
12 **IDENTIFICATION CARD OF A PERSON WHO VIOLATES THIS SECTION. THE**
13 **PERSON SHALL RETURN HIS OR HER OFFICIAL STATE PERSONAL**
14 **IDENTIFICATION CARD UPON THE REQUEST OR ORDER OF THE DEPARTMENT.**

15 Sec. 5. (1) A person who intentionally reproduces, alters,
16 counterfeits, forges, or duplicates an official state personal
17 identification card photograph, the negative of the photograph, an
18 official state personal identification card image, an official
19 state personal identification card, or the electronic data
20 contained on an official state personal identification card or a
21 part of an official state personal identification card or who uses
22 an official state personal identification card, image, or
23 photograph that has been reproduced, altered, counterfeited,
24 forged, or duplicated is subject to 1 of the following:

25 (a) If the intent of reproduction, alteration, counterfeiting,
26 forging, duplication, or use was to commit or aid in the commission
27 of an offense that is a felony punishable by imprisonment for 10 or

1 more years, the person committing the reproduction, alteration,
2 counterfeiting, forging, duplication, or use is guilty of a felony
3 punishable by imprisonment for not more than 10 years or a fine of
4 not more than \$20,000.00, or both.

5 (b) If the intent of the reproduction, alteration,
6 counterfeiting, forging, duplication, or use was to commit or aid
7 in the commission of an offense that is a felony punishable by
8 imprisonment for less than 10 years or a misdemeanor punishable by
9 imprisonment for 6 months or more, the person committing the
10 reproduction, alteration, counterfeiting, forging, duplication, or
11 use is guilty of a felony punishable by imprisonment for not more
12 than 5 years, or a fine of not more than \$10,000.00, or both.

13 (c) If the intent of the reproduction, alteration,
14 counterfeiting, forging, duplication, or use was to commit or aid
15 in the commission of an offense that is a misdemeanor punishable by
16 imprisonment for less than 6 months, the person committing the
17 reproduction, alteration, counterfeiting, forging, duplication, or
18 use is guilty of a misdemeanor punishable by imprisonment for not
19 more than 1 year or a fine of not more than \$2,000.00, or both.

20 (2) A person who sells or possesses with the intent to deliver
21 to another a reproduced, altered, counterfeited, forged, or
22 duplicated official state personal identification card photograph,
23 negative of the photograph, official state personal identification
24 card image, ~~official~~**OFFICIAL** state personal identification card, or
25 electronic data contained on an official state personal
26 identification card or part of an official state personal
27 identification card, or who possesses 2 or more reproduced,

1 altered, counterfeited, forged, or duplicated official state
2 identification card photographs, negatives of the photograph or
3 photographs, image or images, official state identification card or
4 cards, or electronic data contained on official state
5 identification card or cards, is guilty of a felony punishable by
6 imprisonment for not more than 5 years or a fine of not more than
7 \$10,000.00, or both.

8 (3) A person who is in possession of an altered,
9 counterfeited, forged, or duplicated official state personal
10 identification card photograph, negative of the photograph,
11 official state personal identification card image, official state
12 personal identification card, or electronic data contained on an
13 official state personal identification card or part of an official
14 state personal identification card is guilty of a misdemeanor
15 punishable by imprisonment for not more than 1 year or a fine of
16 not more than \$2,000.00, or both.

17 (4) A person shall not steal or, without the cardholder's
18 permission, knowingly take or knowingly remove an official state
19 personal identification card from the person or possession of
20 another. A person shall not use an official state personal
21 identification card that is stolen or knowingly taken or knowingly
22 removed from the person or possession of another. Except as
23 provided in subsection (5), a person who violates this subsection
24 is guilty of a misdemeanor, punishable by imprisonment for not more
25 than 1 year.

26 (5) A person shall not use an official state personal
27 identification card in the commission of a felony if the card is

1 stolen or knowingly taken or knowingly removed from the person or
2 possession of another. A person who violates this subsection is
3 guilty of the penalties provided for the felony committed with the
4 use of the card.

5 (6) Subsections (2) and (3) do not apply to a person who is in
6 possession of 1 or more photocopies, reproductions, or duplications
7 of an official state personal identification card or part of an
8 official state personal identification card to document the
9 person's identity for a legitimate business purpose.

10 (7) Subsections (1)(a) and (b) and (2) do not apply to a minor
11 whose intent is to violate section 703 of the Michigan liquor
12 control code of 1998, 1998 PA 58, MCL 436.1703.

13 **(8) THE DEPARTMENT MAY CANCEL THE OFFICIAL STATE PERSONAL**
14 **IDENTIFICATION CARD OF A PERSON WHO VIOLATES THIS SECTION. THE**
15 **PERSON SHALL RETURN HIS OR HER OFFICIAL STATE PERSONAL**
16 **IDENTIFICATION CARD UPON THE REQUEST OR ORDER OF THE DEPARTMENT.**

17 Sec. 7. (1) The secretary of state may provide a commercial
18 look-up service of records maintained under this act. For each
19 individual record looked up, the secretary of state shall charge a
20 fee specified annually by the legislature, or if the legislature
21 does not specify a fee, a market-based price established by the
22 secretary of state. The secretary of state shall process a
23 commercial look-up request only if the request is in a form or
24 format as prescribed by the secretary of state. Fees collected
25 under this subsection on and after October 1, 2005 through October
26 1, ~~2011~~—2015 shall be credited to the transportation administration
27 collection fund created in section 810b of the Michigan vehicle

1 code, 1949 PA 300, MCL 257.810b.

2 (2) The secretary of state shall establish and maintain a
3 computerized central file of the information contained on
4 application forms received under this act. The computerized central
5 file shall be interfaced with the law enforcement information
6 network as provided in the C.J.I.S. policy council act, 1974 PA
7 163, MCL 28.211 to 28.215.

8 (3) Except as provided in section 10(2), the secretary of
9 state shall not provide an entire computerized central file or
10 other file of records maintained under this act to a
11 nongovernmental person or entity, unless the purchaser pays the
12 prescribed fee for each individual record contained within the
13 computerized file.