

Office of Attorney General Terry Goddard



STATE OF ARIZONA
DEPARTMENT OF LAW
12 75 W. WASHINGTON STREET
PHOENIX, ARIZONA 85007-2926
WWW.AZAG.GOV

ANDREA M. ESQUER
PRESS SECRETARY
PHONE: (602)-542-8019
CELL PHONE: 602-725-2200

Goddard Legal Opinion Provides Guidance for State Employees on How to Enforce Proposition 200

(Phoenix, Ariz. – November 12, 2004) Attorney General Terry Goddard today released a legal opinion making clear what state programs are covered by Proposition 200, which was adopted by Arizona voters on November 2.

A state agency requested the Opinion to clarify what "state and local public benefits" are subject to Proposition 200. The Opinion provides guidance to State employees who will be required to enforce the new law.

The legal analysis concludes that Proposition 200 will apply to welfare programs under Title 46 of the Arizona Statutes. The new law will not apply to federal programs or other programs specifically exempt under federal law. The new law will require state and local government agencies to verify the identity of applicants for state and local welfare benefits.

Goddard emphasized that when the new law becomes effective, the verification of identity requirements must be applied to all applicants.

"This Opinion won't answer all the questions or legal issues stemming from Proposition 200. However, it is the first step in providing guidance to State employees, and will help them perform their duties in compliance with the new law," Goddard said.

The Attorney General took into consideration the language of the Proposition, court opinions, federal immigration and welfare statutes and the decision of the Proposition drafters to place the statute in Title 46, where laws governing Welfare are located.

"We analyzed the language much the same way a court would," Goddard said. "My job was to find how the State can enforce the new law in a way that will survive legal challenge. Our interpretation must be logically consistent and not conflict with the Constitution or federal law."

According to the Opinion, Proposition 200 does not apply to AHCCCS or other programs not included in Title 46. However, Goddard noted that AHCCCS and other

state agencies already must comply with the 1996 Federal Welfare Reform Act that prohibits undocumented immigrants from receiving federal benefits. Regardless of whether a program is subject to Proposition 200, all State and local agencies must comply with this federal law. Goddard also noted that the U.S. Supreme Court ruled in 1982 that all children including undocumented immigrants are entitled to attend K-12 public schools.

Proposition 200 does not become law until the Governor issues a proclamation certifying the Secretary of State's canvass. The canvass takes place on November 22 and the Governor's proclamation will be issued sometime after that date. Goddard noted that outside groups on both sides of the issue have indicated they plan to sue.

"Ultimately, the interpretation of Proposition 200 will be determined by a court of law. This Opinion will provide guidance to state employees until a court makes the final decision," he stated.

The voting portion of Proposition 200 cannot be implemented until it has been precleared by the U.S. Department of Justice. Goddard's office is preparing a packet requesting preclearance that will be submitted to Washington.

The Justice Department will analyze the Proposition to determine if it complies with the Voting Rights Act. The Act prohibits any change to voting procedures that will adversely impact minority voting rights.

###