STATE OF NEW YORK

3813

2019-2020 Regular Sessions

IN ASSEMBLY

January 31, 2019

Introduced by M. of A. ORTIZ -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law, in relation to establishing a municipal identity card program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general municipal law is amended by adding a new section 99-x to read as follows:

§ 99-x. Municipal identity card. 1. As used in this section, the following terms shall have the following meanings:

(a) "municipality" shall mean any county, town, city or village within this state except any city having a population of one million or more.

(b) "office" shall mean the office of new Americans within the department of state.

(c) "municipal identity card" shall mean an identification card issued by the office of new Americans pursuant to subdivision three of this section.

(d) "resident" shall mean a person over the age of fourteen who can establish that he or she is a current resident of the municipality pursuant to paragraph (b) of subdivision five of this section.

2. Any municipality, by resolution or ordinance, may authorize the issuance of municipal identity cards.

3. Municipal identity cards shall be distributed through the department of state, office of new Americans. The office shall promulgate all rules and regulations necessary to effectuate the purposes of this section. The office shall designate access sites where applications for such cards shall be made available for pick-up and submission and shall make applications available online.

4. (a) The municipal identity card shall display, at a minimum, the cardholder's photograph, name, date of birth, address, and an expiration date, provided that the office may by rule establish procedures to

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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protect the addresses of victims of domestic violence or alternate requirements for applicants who lack a permanent address. Such card shall also, at the cardholder's option, display the cardholder's self-designated gender. Such identity card shall be designed in a manner to deter fraud.

(b) The municipal identity card shall be available to any resident of the authorizing municipality, provided that such resident is able to meet the requirements for establishing his or her identity and residency set forth in subdivision five of this section and rules adopted by the office pursuant to this section, including any restrictions the office deems appropriate for the protection of minors.

(c) The municipal identity card shall be issued to applicants free of charge.

5. In order to obtain a municipal identity card an applicant must establish proof of identity and proof of residency within the municipality as follows:

(a) Proof of identity. In order to establish identity, an applicant shall be required to produce one or more of the following documents:

(i) a U.S. or foreign passport;

(ii) a U.S. state driver's license;

(iii) a U.S. state identification card;

(iv) a U.S. permanent resident card;

(v) a consular identification card;

(vi) a photo identification card with name, address, date of birth, and expiration date issued by another country to its citizens or nationals as an alternative to a passport for re-entry to the issuing country;

(vii) a certified copy of U.S. or foreign birth certificate;

(viii) a Social Security card;

(ix) a national identification card with photo, name, address, date of birth, and expiration date;

(x) a foreign driver's license;

(xi) a U.S. or foreign military identification card;

(xii) a current visa issued by a government agency;

(xiii) a U.S. individual taxpayer identification number (ITIN) authorization letter;

(xiv) an electronic benefit transfer (EBT) card; or

(xv) any other documentation that the office deems acceptable.

(xvi) The office may by rule determine the weight to be given to each type of document provided in this paragraph, and require that an applicant produce more than one document to establish identity.

(b) Proof of residency. In order to establish residency, an applicant shall be required to produce one or more of the following items each of which must show the applicant's name and residential address located within the municipality and must be dated no more than sixty days prior to the date such document is presented, except as otherwise indicated in this paragraph:

(i) a utility bill;

(ii) a current residential property lease;

(iii) a local property tax statement dated within one year of the date it is submitted;

(iv) a local real property mortgage payment receipt;

(v) a bank account statement;

(vi) proof that the applicant has a minor child currently enrolled in a school located within the municipality;

(vii) an employment pay stub;

(viii) a jury summons or court order issued by a federal or state court;

(ix) a federal or state income tax or refund statement dated within one year of the date it is submitted;

(x) an insurance bill (homeowner, renter, health, life, or automobile insurance);

(xi) written verification issued by a homeless shelter that receives municipal funding confirming at least fifteen days residency;

(xii) written verification issued by a hospital, health clinic or social services agency located within the municipality confirming at least fifteen days residency; or

(xiii) any other documentation that the office deems acceptable.

(xiv) The office may by rule determine the weight to be given to each type of document provided in this paragraph, and require that an applicant produce more than one document to establish residency. The office shall by rule create alternative methods by which individuals who are homeless can establish residency in the municipality notwithstanding the lack of fixed address.

6. (a) Once every quarter the office shall destroy copies of records provided by applicants to prove identity or residency for a municipal identity card that have been retained more than two years, except where such records are required by law to be preserved as evidence for purposes of litigation.

(b) On or before December thirty-first, two thousand twenty-one, the office shall review data collected in the report described in subdivision nine of this section and make a determination regarding the continuing need to retain records pursuant to paragraph (a) of this subdivision in order to effectively administer the municipal identity card program and shall make any appropriate modifications to the policy for retention of records related to the municipal identity card program.

(c) In the event that: (i) the office fails to make a determination on or before December thirty-first, two thousand twenty-one pursuant to paragraph (b) of this subdivision, or (ii) the office determines that records retention is no longer necessary, then the office shall not retain originals or copies of records provided by an applicant to prove identity or residency for a municipal identity card for longer than the time needed to review the application, and any such records in the office's possession prior to such date shall be destroyed on or before December thirty-first, two thousand twenty-one or, in the case of an application pending on such date, as soon as practicable after a final determination has been made regarding the application. Nothing in this paragraph shall be construed to prevent the office from retaining records where such records are required by law to be preserved as evidence for purposes of litigation.

(d) To the maximum extent allowed by applicable federal and state law, information collected about applicants for the card shall be treated as confidential and may only be disclosed if:

(i) authorized in writing by the individual to whom such information pertains, or if such individual is a minor or is otherwise not legally competent, by such individual's parent or legal guardian;

(ii) so ordered by a court of competent jurisdiction;

(iii) to a requesting municipal agency for the limited purpose of administering the municipal identity card program or determining or facilitating the applicant's eligibility for additional benefits, services, and care, provided that such disclosure is made in accordance with all applicable federal and state privacy laws and regulations, and

subject to the further requirement that such information shall not be redisclosed to any other governmental agency or entity, or third party; or

(iv) to a law enforcement agency that serves the office a judicial subpoena or judicial warrant.

(e) The office shall not indicate on the application forms used to apply for a municipal identity card the type of records provided by an applicant to establish residency or identity.

7. (a) All municipal agencies shall accept such card as proof of identity and residency for access to municipal services unless (i) such acceptance is prohibited by federal or state law, (ii) additional documentation is required to obtain the benefits of a federal or state program, or (iii) the agency has reasonable grounds to believe that the card is counterfeit, altered, or improperly issued, or the individual presenting the card is not the individual to whom the card was issued.

(b) The office shall seek to encourage eligible persons to apply for the card and expand the benefits associated with the card, including, at a minimum, by promoting acceptance of the card by banks and other public and private institutions.

(c) Municipal agencies shall not require the possession of a municipal identity card where identification is not already required to obtain municipal services, provided, however that agencies may require the possession of a municipal identity card to obtain benefits or privileges offered exclusively to those who possess a municipal identity card as an incentive to apply for a municipal identity card.

8. The office shall identify and implement measures, including but not limited to staff training, community outreach, and language assistance tools, to address the needs of limited English proficient individuals in the administration of the municipal identity card program.

9. The office shall prepare and submit one year after the effective date of this section and biannually thereafter to the governor, the speaker of the assembly and the temporary president of the senate a report on the municipal identity card program that includes the following information:

(a) the number of applications received by the office for the municipal identity card disaggregated by applicant's municipality;

(b) the number of municipal identity cards issued;

(c) the number of municipal identity cards issued to minors;

(d) the number of requests made by municipal agencies for information collected about applicants for the municipal identity card disaggregated by requesting agency;

(e) the number of times the office shared documents submitted by applicants to establish eligibility for the municipal identity card with municipal agencies disaggregated by agency;

(f) the number of denials made to requesting agencies for information collected about applicants for the municipal identity card;

(g) the number of municipal identity card applicants whose information was disclosed to law enforcement, disaggregated by whether such disclosure was pursuant to a judicial warrant or judicial subpoena;

(h) the number of occurrences of fraud or other criminal activity related to issuance of the municipal identity card;

(i) the office's efforts to conduct outreach to prospective applicants relating to the municipal identity card program;

(j) the office's efforts to promote acceptance of the municipal identity card by banks and other public and private institutions;

(k) the types of services, other than municipal services, for which the municipal identity card is permitted as acceptable proof of identity and residency; and

(l) any other metric the office deems appropriate, including but not limited to additional measures of fraudulent or other criminal activity related to the municipal identity card program.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.