

# Driver Licensing Guide

Proof of Legal Presence  
DLG-0701

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| POLICY   |  |
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| <b>Title:</b> Proof of Legal Presence  |  |
| <b>Effective Date:</b> July 1, 2010  | <b>Revision Date:</b> January 25, 2020 |
| <b>Authority:</b> <a href="#">46.2-328.1</a>   |  |
| <b>Policy:</b><br><b>&lt;&lt;&lt;&lt;REVISION</b><br>Legal presence means that a person is either a U.S. citizen or is legally authorized to be in the U.S. U.S. citizens, conditional resident aliens, and legal permanent residents are required to present acceptable legal presence document(s) when: <ul style="list-style-type: none"><li>• they apply for a non-compliant original driver's license, learner's permit or ID card AND legal presence is not on file,<br/><b>OR</b></li><li>• their non-compliant credential becomes expired, suspended, revoked and/or cancelled AND legal presence is not on file.</li></ul> <b>NOTE:</b> Customers born in states that participate in the legal presence certification program may have their legal presence certified online (refer to <a href="#">DLG-0702</a> ). <b>END REVISION&gt;&gt;&gt;&gt;</b><br>Customers applying for a first-time issuance of a REAL ID credential are required to present proof of legal presence along with all other required proof documents.<br>Customers temporarily authorized to be in the United States must present legal presence documents whenever: <ul style="list-style-type: none"><li>• they apply for an original driver's license, learner's permit or ID card,<br/><b>OR</b></li><li>• their credential becomes suspended, expired, revoked, or cancelled,<br/><b>OR</b></li><li>• their legal presence authorization is less than 30 days from the date of application.</li></ul> Temporarily authorized customers will receive an original limited duration license, permit or ID card that will be valid for the amount of time indicated on the legal presence document.<br>Legal presence may be added to a customer's record at any time in a CSC if they hold a (valid or expired) Virginia driver's license or ID card, are applying for a Virginia driver's license or ID card, have a legal presence stop, or are applying for a first-time issuance of a REAL ID credential. |  |
| <b>Exception:</b><br>The following customers are NOT REQUIRED to submit proof of legal presence: <ul style="list-style-type: none"><li>• ID card applicants born in 1937 or earlier and are exchanging an:<ul style="list-style-type: none"><li>▪ expired (for fewer than 5 years) Virginia license<br/><b>OR</b></li><li>▪ unexpired or expired (for fewer than 5 years) Virginia ID Card</li></ul></li><li>• Customers complying with a medical review suspension or a medical review cancellation who are otherwise eligible to receive a license or permit.</li></ul>  |  |

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## DOCUMENT ACCEPTABILITY

- A complete list of acceptable legal presence documents is available on the Obtaining a Driver's License or Identification Card ([DMV 141](#)). This document may change without prior notice
- Submitted legal presence documents must show the customer's full legal name. Nicknames will not be accepted
- All proof documents MUST be original. Neither temporary documents nor photocopies of documents will be accepted.

- Prior to being keyed in the system, all legal presence documents must be reviewed, and determined authentic and acceptable according to the [DMV 141](#), following guidelines in [CSCOM-905](#).
- If a document appears questionable, CSC management has the authority to NOT accept any legal presence document. Management may request the customer to provide additional legal presence documents.
- If the legal presence document requires elevated review, management is to submit all available customer documents (with application) to Identification Review (IR) work center (refer to [DLG-0202](#)).
- All non-citizen legal presence documents and U.S certificates of naturalization/citizenship must be verified electronically in the system before a credential is issued.
  - Verification is done automatically by the system when the transaction is processed.
  - Verification does NOT exempt customers who never held a Virginia credential, or who submitted an out of state credential, from the requirement to prove legal presence every time application is made until a Virginia credential is issued.
  - Transactions for which legal presence documents do not verify must be scanned for elevated review in accordance with [DLG-0202](#).
- U.S. passports presented as legal presence must be verified electronically in the system before a credential is issued (this is done automatically in the system when the transaction is processed).
  - Verification does NOT exempt customers who never held a Virginia credential, or who submitted an out of state credential, from the requirement to prove legal presence every time application is made until a Virginia credential is issued.
  - If the U.S. passport or U.S. passport card is submitted for verification but the system does not verify the passport/passport card, it must be scanned for elevated review in accordance with [DLG-0202](#).  
**EXCEPTION** – If the U.S passport verification system is down, management or designee may manually review and verify the customer's U.S. passport or U.S. passport card presented as legal presence.
- Customers may submit an Employment Authorization Card (EAD) I-766 for proof of identity and/or proof of legal presence.
  - Customers may also submit other documents such as an USCIS I-797 Form along with the EAD.

**NOTE:** When customers submit an Employment Authorization Card (EAD) I-766 along with other documents such as an USCIS I-797 form, CSRs should use the valid legal presence proof document which would give the customer the longest legal presence expiration date or the longest credential expiration date.

- The Employment Authorization Card (EAD) I-766 is NOT an acceptable proof of legal presence document to be used to obtain a Real ID credential.

- Management may verify a questionable birth certificate online (refer to [Electronic Verification/Certification Overview Chart](#) for requirements).
- Links to sample legal presence documents can be found in the Proof of Identity/Age/Legal Presence Charts section of the Driver Licensing Guide Table of Contents located on the Intranet.
- Once document acceptability has been determined, refer to [CSCOM-905](#) (CSC Proof Document Verification and Control).

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#### WHEN LEGAL PRESENCE IS NOT REQUIRED

- Customers born in 1937 or earlier applying for an ID card are NOT required to prove legal presence IF they:
  - Currently hold an valid ID card
  - OR**
  - Previously held a Virginia Driver's License or ID card that has been expired FEWER than 5 years.

**NOTE:** Customers born in 1937 or earlier with a limited duration or out of state license or ID card MUST provide proof of legal presence to obtain a Virginia ID card.
- Customers complying with a medical review suspension or a medical review cancellation are not required to prove legal presence unless they are required to provide proof of legal presence for some other reason.
- Customers whose license or learner's permit was issued prior to the implementation of legal presence (1/1/04) are grandfathered and not required to prove legal presence provided their license or learner's permit is NOT suspended, revoked, cancelled, or expired.
- Customers requesting a duplicate, renewal, or reissue license, permit or ID card are not required to prove legal presence provided their credential is not suspended, expired, cancelled or revoked. Customers are NOT required to resubmit legal presence if their credential is expired, suspended, cancelled, or revoked and they have proven to DMV that they are either a US citizen or legal permanent resident.
- Customers exchanging a Virginia driver's license that is NOT suspended, expired, revoked or canceled for an ID card are not required to prove legal presence.

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## UPDATING LEGAL PRESENCE - NO CREDENTIAL ISSUED

- Legal presence may be added to a customer's record at any time in a CSC if they hold a (valid or expired) Virginia driver's license or ID card, are applying for a Virginia driver's license or ID card, have a legal presence stop or are applying for a first-time issuance of a REAL ID credential.
  - CSC personnel processing legal presence updates with no credential issued must follow the steps outlined in [CSCOM-905](#).

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## POINTS TO REMEMBER

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- If the customer started an original driver's license or adult identification card application online, the CSR should ensure that the customer's information (Full Legal Name, Social Security Number, Date of Birth, Physical Information, Address, etc.) has been verified against the proof documents presented by the customer, as this information is entered by the customer and could be incorrect. Any incorrect information could lead to a mismatch or a delay that could result in sending the customer away. **END REVISION>>>>>**
- The following customers will have legal presence removed from their record and must re-submit legal presence every time application is made until the Virginia driver's license, permit, CDL, or ID card has been issued:
  - Customer's credential is cancelled due to false application or documents
  - Customer fails a test and never held a Virginia credential.  
**EXCEPTION:** Customers whose record indicates their birth event was certified online are NOT required to present legal presence when re-testing (refer to [DLG-0702](#)).
  - Customer fails a test and is submitting an out of state credential.  
**EXCEPTION:** Customers whose record indicates their birth event was certified online are NOT required to present legal presence when re-testing (refer to [DLG-0702](#)).
- If the customer's record shows a legal presence cancellation order due to government notification (GN01 or GN02), the customer's legal presence document(s) must always be scanned to Identification Review (IR) to have LP added, and the order complied prior to reissuing a credential.
  - Enter the customer's phone number in the system (if the customer provides a number) to enable the work center to contact them directly, if necessary.
  - If the scanner is inoperable:
    - Fax all of the customer's LP documents to [IR](#).
    - Include the following on the fax coversheet:
      - the customer's name
      - the CSR/contact name
      - the CSC telephone number
      - mark subject as LP cancellation order

**NOTE:** An email alert will be sent once the customer's documents have been received.

IR will notify the CSR when the order has been complied so the customer's transaction can be processed. Anytime IR response is not received within 30 minutes and the customer is waiting, call IR at 804-367-0064.

- Legal presence may be added to a customer's record at any time in a CSC if they hold a (valid or expired) Virginia driver's license or ID card, are applying for a Virginia driver's license or ID card, or have a legal presence stop.
- Customers whose U.S. Passport (presented as legal presence) must be scanned for elevated review may present a valid U.S. birth certificate to complete their legal presence document requirement.
  - Contact Identification Review if the customer is presenting a valid U.S. birth certificate and an elevated review stop is on the customer's record for U.S. Passport review.
- If a customer presents a legal presence document that usually has an expiration date, but it does not have an expiration date, he will receive a limited duration license, permit, or ID card valid for 1 year.

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## CONTACT

For additional information contact:

- CSC Manager/Assistant Manager
- DMV Contact Center Help Desk (804) 367-6646
- DSA/[Identification Review](#)