

First Extraordinary Session  
Sixty-fifth General Assembly  
STATE OF COLORADO

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 06B-2082.01 Jerry Barry

**HOUSE BILL 06S-1023**

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**HOUSE SPONSORSHIP**

**Romanoff,**

**SENATE SPONSORSHIP**

**Fitz-Gerald,**

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**House Committees**

State, Veterans, & Military Affairs

**Senate Committees**

Business, Labor and Technology

SENATE  
Amended 3rd Reading  
July 10, 2006

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**A BILL FOR AN ACT**

101 **CONCERNING THE IMMEDIATE IMPLEMENTATION OF RESTRICTIONS ON**  
102 **PUBLIC BENEFITS AS DEFINED IN ARTICLE 8 OF THE UNITED**  
103 **STATES CODE FOR PERSONS EIGHTEEN YEARS OF AGE OR OLDER**  
104 **EFFECTIVE AUGUST 1, 2006.**

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SENATE  
Amended 2nd Reading  
July 9, 2006

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

On and after August 1, 2006, requires each state agency or political subdivision to verify the lawful presence in the United States of each person 18 years of age or older who applies for public benefits, as defined in federal law. Excludes specified public benefits. Specifies the

HOUSE  
3rd Reading Unamended  
July 8, 2006

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

HOUSE  
2nd Reading Unamended  
July 7, 2006

manner of verification, including requiring an affidavit. Specifies criminal penalties for falsifying a required affidavit. Prohibits state agencies or political subdivisions from providing benefits in violation of the act. Establishes reporting requirements.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2           **SECTION 1.** Title 24, Colorado Revised Statutes, is amended BY  
3 THE ADDITION OF A NEW ARTICLE to read:

4   **ARTICLE 76.5**

5   **Restrictions on Public Benefits**

6           **24-76.5-101. Legislative declaration.** IT IS THE PUBLIC POLICY  
7 OF THE STATE OF COLORADO THAT ALL PERSONS EIGHTEEN YEARS OF AGE  
8 OR OLDER SHALL PROVIDE PROOF THAT THEY ARE LAWFULLY PRESENT IN  
9 THE UNITED STATES PRIOR TO RECEIPT OF CERTAIN PUBLIC BENEFITS.

10           **24-76.5-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE  
11 CONTEXT OTHERWISE REQUIRES:

12           (1) "EMERGENCY MEDICAL CONDITION" SHALL HAVE THE SAME  
13 MEANING AS PROVIDED IN 42 U.S.C. SEC. 1396b (v) (3).

14           (2) "FEDERAL PUBLIC BENEFITS" SHALL HAVE THE SAME MEANING  
15 AS PROVIDED IN 8 U.S.C. SEC. 1611.

16           (3) "STATE OR LOCAL PUBLIC BENEFITS" SHALL HAVE THE SAME  
17 MEANING AS PROVIDED IN 8 U.S.C. SEC. 1621.

18           **24-76.5-103. Verification of lawful presence - exceptions -**  
19 **reporting.** (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF  
20 THIS SECTION OR WHERE EXEMPTED BY FEDERAL LAW, ON AND AFTER  
21 AUGUST 1, 2006, EACH AGENCY OR POLITICAL SUBDIVISION OF THE STATE  
22 SHALL VERIFY THE LAWFUL PRESENCE IN THE UNITED STATES OF EACH  
23 NATURAL PERSON EIGHTEEN YEARS OF AGE OR OLDER WHO APPLIES FOR

1 STATE OR LOCAL PUBLIC BENEFITS OR FOR FEDERAL PUBLIC BENEFITS FOR  
2 THE APPLICANT.

3 (2) THIS SECTION SHALL BE ENFORCED WITHOUT REGARD TO RACE,  
4 RELIGION, GENDER, ETHNICITY, OR NATIONAL ORIGIN.

5 (3) VERIFICATION OF LAWFUL PRESENCE IN THE UNITED STATES  
6 SHALL NOT BE REQUIRED:

7 (a) FOR ANY PURPOSE FOR WHICH LAWFUL PRESENCE IN THE  
8 UNITED STATES IS NOT REQUIRED BY LAW, ORDINANCE, OR RULE;

9 (b) FOR OBTAINING HEALTH CARE ITEMS AND SERVICES THAT ARE  
10 NECESSARY FOR THE TREATMENT OF AN EMERGENCY MEDICAL CONDITION  
11 OF THE PERSON INVOLVED AND ARE NOT RELATED TO AN ORGAN  
12 TRANSPLANT PROCEDURE;

13 (c) FOR SHORT-TERM, NONCASH, IN-KIND EMERGENCY DISASTER  
14 RELIEF;

15 (d) FOR PUBLIC HEALTH ASSISTANCE FOR IMMUNIZATIONS WITH  
16 RESPECT TO IMMUNIZABLE DISEASES AND FOR TESTING AND TREATMENT  
17 OF SYMPTOMS OF COMMUNICABLE DISEASES WHETHER OR NOT SUCH  
18 SYMPTOMS ARE CAUSED BY A COMMUNICABLE DISEASE;

19 (e) FOR PROGRAMS, SERVICES, OR ASSISTANCE, SUCH AS SOUP  
20 KITCHENS, CRISIS COUNSELING AND INTERVENTION, AND SHORT-TERM  
21 SHELTER SPECIFIED BY FEDERAL LAW OR REGULATION THAT:

22 (I) DELIVER IN-KIND SERVICES AT THE COMMUNITY LEVEL,  
23 INCLUDING SERVICES THROUGH PUBLIC OR PRIVATE NONPROFIT AGENCIES;

24 (II) DO NOT CONDITION THE PROVISION OF ASSISTANCE, THE  
25 AMOUNT OF ASSISTANCE PROVIDED, OR THE COST OF ASSISTANCE  
26 PROVIDED ON THE INDIVIDUAL RECIPIENT'S INCOME OR RESOURCES; AND

27 (III) ARE NECESSARY FOR THE PROTECTION OF LIFE OR SAFETY; OR

1 (f) FOR PRENATAL CARE.

2 (4) AN AGENCY OR A POLITICAL SUBDIVISION SHALL VERIFY THE  
3 LAWFUL PRESENCE IN THE UNITED STATES OF EACH APPLICANT EIGHTEEN  
4 YEARS OF AGE OR OLDER FOR FEDERAL PUBLIC BENEFITS OR STATE OR  
5 LOCAL PUBLIC BENEFITS BY REQUIRING THE APPLICANT TO:

6 (a) PRODUCE:

7 (I) A VALID COLORADO DRIVER'S LICENSE OR A COLORADO  
8 IDENTIFICATION CARD, ISSUED PURSUANT TO ARTICLE 2 OF TITLE 42,  
9 C.R.S.; OR

10 (II) A UNITED STATES MILITARY CARD OR A MILITARY  
11 DEPENDENT'S IDENTIFICATION CARD; OR

12 (III) A UNITED STATES COAST GUARD MERCHANT MARINER  
13 CARD; OR

14 (IV) A NATIVE AMERICAN TRIBAL DOCUMENT; AND

15 (b) EXECUTE AN AFFIDAVIT STATING:

16 (I) THAT HE OR SHE IS A UNITED STATES CITIZEN OR LEGAL  
17 PERMANENT RESIDENT; OR

18 (II) THAT HE OR SHE IS OTHERWISE LAWFULLY PRESENT IN THE  
19 UNITED STATES PURSUANT TO FEDERAL LAW.

20 (5) (a) NOTWITHSTANDING THE REQUIREMENTS OF PARAGRAPH (a)  
21 OF SUBSECTION (4) OF THIS SECTION, THE EXECUTIVE DIRECTOR OF THE  
22 DEPARTMENT OF REVENUE MAY ISSUE EMERGENCY RULES, TO BE  
23 EFFECTIVE UNTIL MARCH 1, 2007, PROVIDING FOR ADDITIONAL FORMS OF  
24 IDENTIFICATION OR A WAIVER PROCESS TO ENSURE THAT AN INDIVIDUAL  
25 SEEKING BENEFITS PURSUANT TO THIS SECTION PROVES LAWFUL PRESENCE  
26 IN THE UNITED STATES. THE RULES ARE NECESSARY TO ENSURE THAT  
27 CERTAIN INDIVIDUALS LAWFULLY PRESENT IN THE UNITED STATES

1 RECEIVE AUTHORIZED BENEFITS, INCLUDING BUT NOT LIMITED TO  
2 HOMELESS STATE CITIZENS.

3 (b) THIS SUBSECTION (5) AND ALL EMERGENCY RULES AUTHORIZED  
4 UNDER THIS SUBSECTION (5) ARE REPEALED, EFFECTIVE MARCH 1, 2007.

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6 (6) A PERSON WHO KNOWINGLY MAKES A FALSE, FICTITIOUS, OR  
7 FRAUDULENT STATEMENT OR REPRESENTATION IN AN AFFIDAVIT  
8 EXECUTED PURSUANT TO SUBSECTION (4) OF THIS SECTION SHALL BE  
9 GUILTY OF A VIOLATION OF SECTION 18-8-503, C.R.S. IT SHALL  
10 CONSTITUTE A SEPARATE VIOLATION OF SECTION 18-8-503, C.R.S., EACH  
11 TIME THAT A PERSON RECEIVES A PUBLIC BENEFIT BASED UPON SUCH A  
12 STATEMENT OR REPRESENTATION.

13 (7) FOR AN APPLICANT WHO HAS EXECUTED AN AFFIDAVIT STATING  
14 THAT HE OR SHE IS AN ALIEN LAWFULLY PRESENT IN THE UNITED STATES,  
15 VERIFICATION OF LAWFUL PRESENCE FOR FEDERAL PUBLIC BENEFITS OR  
16 STATE OR LOCAL PUBLIC BENEFITS SHALL BE MADE THROUGH THE FEDERAL  
17 SYSTEMATIC ALIEN VERIFICATION OF ENTITLEMENT PROGRAM, REFERRED  
18 TO IN THIS SECTION AS THE "SAVE PROGRAM", OPERATED BY THE UNITED  
19 STATES DEPARTMENT OF HOMELAND SECURITY OR A SUCCESSOR PROGRAM  
20 DESIGNATED BY THE UNITED STATES DEPARTMENT OF HOMELAND  
21 SECURITY. UNTIL SUCH VERIFICATION OF LAWFUL PRESENCE IS MADE, THE  
22 AFFIDAVIT MAY BE PRESUMED TO BE PROOF OF LAWFUL PRESENCE FOR  
23 PURPOSES OF THIS SECTION.

24 (8) AGENCIES OR POLITICAL SUBDIVISIONS OF THIS STATE MAY  
25 ADOPT VARIATIONS OF THE REQUIREMENTS OF PARAGRAPH (b) OF  
26 SUBSECTION (4) THIS SECTION TO IMPROVE EFFICIENCY OR REDUCE DELAY  
27 IN THE VERIFICATION PROCESS OR TO PROVIDE FOR ADJUDICATION OF

1 UNIQUE INDIVIDUAL CIRCUMSTANCES IN WHICH THE VERIFICATION  
2 PROCEDURES IN THIS SECTION WOULD IMPOSE UNUSUAL HARDSHIP ON A  
3 LEGAL RESIDENT OF THE STATE; EXCEPT THAT THE VARIATIONS SHALL BE  
4 NO LESS STRINGENT THAN THE REQUIREMENTS OF THIS SECTION.

5 (9) IT SHALL BE UNLAWFUL FOR AN AGENCY OR A POLITICAL  
6 SUBDIVISION OF THIS STATE TO PROVIDE A FEDERAL PUBLIC BENEFIT OR A  
7 STATE OR LOCAL PUBLIC BENEFIT IN VIOLATION OF THIS SECTION. EACH  
8 STATE AGENCY OR DEPARTMENT THAT ADMINISTERS A PROGRAM THAT  
9 PROVIDES STATE OR LOCAL PUBLIC BENEFITS SHALL PROVIDE AN ANNUAL  
10 REPORT WITH RESPECT TO ITS COMPLIANCE WITH THIS SECTION TO THE  
11 STATE, VETERANS, AND MILITARY AFFAIRS COMMITTEES OF THE SENATE  
12 AND HOUSE OF REPRESENTATIVES, OR ANY SUCCESSOR COMMITTEES.

13 (10) ERRORS AND SIGNIFICANT DELAYS BY THE SAVE PROGRAM  
14 SHALL BE REPORTED TO THE UNITED STATES DEPARTMENT OF HOMELAND  
15 SECURITY AND TO THE SECRETARY OF STATE, BOTH OF WHICH MONITOR  
16 THE SAVE PROGRAM AND ITS VERIFICATION APPLICATION ERRORS AND  
17 SIGNIFICANT DELAYS AND REPORT YEARLY ON SUCH ERRORS AND DELAYS,  
18 TO ENSURE THAT THE APPLICATION OF THE SAVE PROGRAM IS NOT  
19 WRONGFULLY DENYING BENEFITS TO LEGAL RESIDENTS OF THE STATE.

20 (11) IF ANY PROVISION OF THIS SECTION OR THE APPLICATION  
21 THEREOF TO ANY PERSON OR CIRCUMSTANCE IS HELD INVALID, SUCH  
22 INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS OR APPLICATIONS OF  
23 THE SECTION THAT CAN BE GIVEN EFFECT WITHOUT THE INVALID  
24 PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS  
25 SECTION ARE DECLARED TO BE SEVERABLE.

26 **SECTION 2.** The general assembly anticipates that there may be  
27 a need for supplemental appropriations to comply with the provisions of

1 this act that cannot be accommodated within existing resources.

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3 **SECTION 3. Safety clause.** The general assembly hereby finds,  
4 determines, and declares that this act is necessary for the immediate  
5 preservation of the public peace, health, and safety.