

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

HOUSE SPONSORSHIP

Romanoff,

SENATE SPONSORSHIP

Fitz-Gerald,

House Committees

State, Veterans, & Military Affairs

Senate Committees

Business, Labor and Technology

SENATE
Amended 3rd Reading
July 10, 2006

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.**

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.)

HOUSE
3rd Reading Unamended
July 8, 2006

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
2nd Reading Unamended
July 7, 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.

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.

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.