

First Extraordinary Session
Sixty-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 06B-2082.01 Jerry Barry

HOUSE BILL -

HOUSE SPONSORSHIP

Romanoff,

SENATE SPONSORSHIP

Fitz-Gerald,

House Committees
State, Veterans, & Military Affairs

Senate Committees

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.

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

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. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

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

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

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

14 **24-76.5-102. Verification of lawful presence - exceptions -**
15 **reporting.** (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (3) OF
16 THIS SECTION OR WHERE EXEMPTED BY FEDERAL LAW, ON AND AFTER
17 AUGUST 1, 2006, EACH AGENCY OR POLITICAL SUBDIVISION OF THE STATE
18 SHALL VERIFY THE LAWFUL PRESENCE IN THE UNITED STATES OF EACH
19 NATURAL PERSON EIGHTEEN YEARS OF AGE OR OLDER WHO APPLIES FOR
20 STATE OR LOCAL PUBLIC BENEFITS OR FOR FEDERAL PUBLIC BENEFITS.

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

23 (3) VERIFICATION OF LAWFUL PRESENCE IN THE UNITED STATES

1 SHALL NOT BE REQUIRED:

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

4 (b) FOR OBTAINING HEALTH CARE ITEMS AND SERVICES THAT ARE
5 NECESSARY FOR THE TREATMENT OF AN EMERGENCY MEDICAL CONDITION
6 OF THE PERSON INVOLVED AND ARE NOT RELATED TO AN ORGAN
7 TRANSPLANT PROCEDURE;

8 (c) FOR SHORT-TERM, NONCASH, IN-KIND EMERGENCY DISASTER
9 RELIEF;

10 (d) FOR PUBLIC HEALTH ASSISTANCE FOR IMMUNIZATIONS WITH
11 RESPECT TO IMMUNIZABLE DISEASES AND FOR TESTING AND TREATMENT
12 OF SYMPTOMS OF COMMUNICABLE DISEASES WHETHER OR NOT SUCH
13 SYMPTOMS ARE CAUSED BY A COMMUNICABLE DISEASE;

14 (e) FOR PROGRAMS, SERVICES, OR ASSISTANCE, SUCH AS SOUP
15 KITCHENS, CRISIS COUNSELING AND INTERVENTION, AND SHORT-TERM
16 SHELTER SPECIFIED BY THE UNITED STATES ATTORNEY GENERAL IN THE
17 UNITED STATES ATTORNEY GENERAL'S SOLE AND UNREVIEWABLE
18 DISCRETION AFTER CONSULTATION WITH APPROPRIATE FEDERAL AGENCIES
19 AND DEPARTMENTS THAT:

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

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

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

26 (f) FOR PRENATAL CARE.

27 (4) AN AGENCY OR A POLITICAL SUBDIVISION SHALL VERIFY THE

1 LAWFUL PRESENCE IN THE UNITED STATES OF EACH APPLICANT EIGHTEEN
2 YEARS OF AGE OR OLDER FOR FEDERAL PUBLIC BENEFITS OR STATE OR
3 LOCAL PUBLIC BENEFITS BY REQUIRING THE APPLICANT TO EXECUTE AN
4 AFFIDAVIT STATING:

5 (a) THAT HE OR SHE IS A UNITED STATES CITIZEN OR LEGAL
6 PERMANENT RESIDENT; OR

7 (b) THAT HE OR SHE IS OTHERWISE LAWFULLY PRESENT IN THE
8 UNITED STATES PURSUANT TO FEDERAL LAW.

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

20 (6) A PERSON WHO KNOWINGLY MAKES A FALSE, FICTITIOUS, OR
21 FRAUDULENT STATEMENT OR REPRESENTATION IN AN AFFIDAVIT
22 EXECUTED PURSUANT TO SUBSECTION (4) OF THIS SECTION SHALL BE
23 GUILTY OF A VIOLATION OF SECTION 18-8-503, C.R.S.

24 (7) AGENCIES OR POLITICAL SUBDIVISIONS OF THIS STATE MAY
25 ADOPT VARIATIONS OF THE REQUIREMENTS OF THIS SECTION TO IMPROVE
26 EFFICIENCY OR REDUCE DELAY IN THE VERIFICATION PROCESS OR TO
27 PROVIDE FOR ADJUDICATION OF UNIQUE INDIVIDUAL CIRCUMSTANCES IN

1 WHICH THE VERIFICATION PROCEDURES IN THIS SECTION WOULD IMPOSE
2 UNUSUAL HARDSHIP ON A LEGAL RESIDENT OF THE STATE.

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

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

18 **SECTION 2. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, and safety.