

First Extraordinary Session
Sixty-fifth General Assembly
STATE OF COLORADO

REVISED

*This Version Includes All Amendments Adopted
on Second Reading 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

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.

SENATE
Amended 2nd Reading
July 9, 2006

HOUSE
3rd Reading Unamended
July 8, 2006

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.

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 FOR
21 THE APPLICANT.

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

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

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

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

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

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

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

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

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

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

27 (f) FOR PRENATAL CARE.

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

5 (a) PRODUCE:

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

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

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

13 (IV) A NATIVE AMERICAN TRIBAL DOCUMENT; AND

14 (b) EXECUTE AN AFFIDAVIT STATING:

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

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

19 ==
20 (5) 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. IT SHALL
24 CONSTITUTE A SEPARATE VIOLATION OF SECTION 18-8-503, C.R.S., EACH
25 TIME THAT A PERSON RECEIVES A PUBLIC BENEFIT BASED UPON SUCH A
26 STATEMENT OR REPRESENTATION.

27 (6) AGENCIES OR POLITICAL SUBDIVISIONS OF THIS STATE MAY

1 ADOPT VARIATIONS OF THE REQUIREMENTS OF PARAGRAPH (b) OF
2 SUBSECTION (4) THIS SECTION TO IMPROVE EFFICIENCY OR REDUCE DELAY
3 IN THE VERIFICATION PROCESS OR TO PROVIDE FOR ADJUDICATION OF
4 UNIQUE INDIVIDUAL CIRCUMSTANCES IN WHICH THE VERIFICATION
5 PROCEDURES IN THIS SECTION WOULD IMPOSE UNUSUAL HARDSHIP ON A
6 LEGAL RESIDENT OF THE STATE; EXCEPT THAT THE VARIATIONS SHALL BE
7 NO LESS STRINGENT THAN THE REQUIREMENTS OF THIS SECTION.

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

16 =====
17 **SECTION 2. Safety clause.** The general assembly hereby finds,
18 determines, and declares that this act is necessary for the immediate
19 preservation of the public peace, health, and safety.