

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1474

Short Title: Public Assistance Benefits/Residents Only. (Public)

Sponsors: Representatives Howard, Brubaker, Sherrill, Crawford (Primary Sponsors); Almond, Daughtridge, Folwell, Frye, Grady, Gulley, Hilton, Johnson, Justice, Justus, Kiser, Moore, Ray, and Starnes.

Referred to: Judiciary III.

April 21, 2005

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT AN APPLICANT FOR PUBLIC ASSISTANCE
2 PROGRAM BENEFITS MUST PROVIDE PROOF THAT THE APPLICANT IS A
3 UNITED STATES CITIZEN OR, IF NOT A UNITED STATES CITIZEN, IS
4 LAWFULLY PRESENT IN THE UNITED STATES UNDER FEDERAL LAW;
5 TO PROVIDE FOR TEMPORARY PUBLIC ASSISTANCE BENEFITS TO BE
6 PAID IN CASES WHERE THE APPLICANT CANNOT PROVIDE PROOF AT
7 THE TIME OF APPLICATION; TO REQUIRE CERTAIN STATE AGENCIES
8 TO COOPERATE WITH LOCAL GOVERNMENTS AND THE UNITED
9 STATES DEPARTMENT OF HOMELAND SECURITY TO DEVELOP A
10 SYSTEM FOR VERIFYING LAWFUL PRESENCE IN THE UNITED STATES.

11 The General Assembly of North Carolina enacts:

12 **SECTION 1.** Article 2 of Chapter 108A of the General Statutes is amended
13 by adding the following new section to read:

14 **"§ 108A-25.4. Legal presence required for public assistance; exceptions;**
15 **definitions; proof of legal presence.**

16 (a) In addition to meeting the existing eligibility requirements for public
17 assistance benefits applied for under this Article, no person who is not a United States
18 citizen or legally present in the United States shall receive medical services under this
19 Article, except for the following:

20 (1) Medical Assistance benefits for those residing in long-term
21 institutional facilities or participating in home and community-based
22 wavers on June 30, 1997, who were eligible for full Medical
23 Assistance benefits shall continue to be eligible for Medical Assistance
24 benefits at State expense if federal financial participation is not
25 available;
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- 1 (2) Medical Assistance benefits for those persons who because of alien
2 requirements pursuant to the federal Personal Responsibility and Work
3 Opportunity Reconciliation Act of 1996 (P.O. 104-193) (i) are under
4 the age of 19 years and (ii) would be eligible for full Medical
5 Assistance benefits if the alien requirements prior to the passage of the
6 Personal Responsibility and Work Opportunity Reconciliation Act of
7 1996 were still in effect. However, those persons upon reaching the
8 age of 19 years shall comply with the provisions of this section; and
9 (3) State or local public assistance benefits that are mandated by federal
10 law pursuant to 8 U.S.C. § 1621.
11 (b) The determination of eligibility for public assistance benefits as provided in
12 this Article is subject to the following, as applicable.
13 (1) In addition to meeting the existing eligibility requirements of the
14 benefits applied for, no person who is not a United States citizen or
15 legally present in the United States shall receive State or local public
16 assistance under this Article, except for State or local public assistance
17 that is mandated by federal law under 8 U.S.C. § 1621.
18 (2) In addition to providing proof of other eligibility requirements, at the
19 time of application for any State or local public benefit, an applicant
20 who is 19 years of age or older shall provide affirmative proof that the
21 applicant is a United States citizen or is legally present in the United
22 States. The affirmative proof shall consist of any valid document or
23 combination of valid documents recognized by the Division of Motor
24 Vehicles under G.S. 20-7(b3), or a social security number as verified
25 by the Social Security Administration. An applicant who is under the
26 age of 19 years shall not be required to provide affirmative proof;
27 however, the person upon reaching the age of 19 shall comply with
28 this section.
29 (3) An applicant who cannot provide proof that the applicant is a citizen or
30 legally present at the time of application shall sign an affidavit under
31 oath attesting that the applicant is a United States citizen or legally
32 present in the United States in order to receive temporary benefits as
33 provided in this section. The affidavit shall be on or consistent with
34 forms prepared by the State or local government agency administering
35 the public assistance program, and shall be subject to and include an
36 explanation of the penalties under State law for knowingly providing
37 false information on a public document and fraudulently obtaining
38 public assistance benefits. The agency administering the public
39 benefits document shall report in writing to the Attorney General of
40 North Carolina those individuals who are determined to have falsely
41 attested to lawful presence. When an applicant has provided the sworn
42 affidavit required by this subdivision, the applicant shall be eligible to
43 receive temporary public assistance for either:

- 1 a. Ninety days or until such time that it is determined that the
2 applicant is not legally present in the United States, whichever
3 is earlier, or
4 b. Indefinitely if the applicant provides a copy of a completed
5 application for a birth certificate that has been filed and is
6 pending and being actively pursued in accordance with Article
7 4 of Chapter 130A of the General Statutes or a substantially
8 similar law of another state, the District of Columbia, or United
9 States territory or commonwealth. The extension shall terminate
10 upon the applicant's receipt of a birth certificate or a
11 determination that a birth certificate does not exist because the
12 applicant is not a United States citizen.

13 (c) Subsection (b) of this section does not apply to persons applying for public
14 assistance benefits exempted by subsection (a) of this section."

15 **SECTION 2.** All State agencies administering programs of public assistance
16 in this State shall cooperate with local governments and the United States Department
17 of Homeland Security to develop a system to facilitate verification of an individual's
18 lawful presence in the United States in furtherance of this act. The system developed
19 may include all or part of the Systematic Alien Verification Entitlements Program
20 operated by the United States Department of Homeland Security.

21 **SECTION 3.** This act becomes effective January 1, 2006, and applies to
22 applications for public assistance submitted on and after that date.