

078133204

HOUSE BILL NO. 2937

Offered January 10, 2007

Prefiled January 10, 2007

A BILL to amend and reenact §§ 32.1-325.03 and 63.2-503.1 of the Code of Virginia, relating to eligibility of certain aliens for state and local public benefits.

Patrons—Miller, J.H., Albo, Frederick and Hugo

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-325.03 and 63.2-503.1 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-325.03. Legal presence required for certain state and local public benefits; exceptions; definitions; proof of legal presence.

A. In addition to meeting the existing eligibility requirements of the benefits applied for, no person who is not a United States Citizen or legally present in the United States shall receive medical services under this chapter, except for the following:

1. Medicaid benefits for those residing in long-term institutional facilities or participating in home and community based waivers on June 30, 1997, who were eligible for full Medicaid benefits shall continue to be eligible for Medicaid benefits at state expense if federal financial participation is not available;

2. Medicaid benefits for those who because of alien requirements pursuant to the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) (i) are under the age of 19 years and (ii) would be eligible for full Medicaid benefits if the alien requirements prior to the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 were still in effect. However, such person upon reaching the age of 19 years shall comply with the provisions of this section; and

3. State or local public benefits that are mandated by Federal Law pursuant to 8 U.S.C. § 1621.

B. The determination of eligibility for public benefits as provided in this chapter shall be subject to the provisions of § 63.2-503.1, as applicable.

C. No state or local funds shall be awarded or otherwise disbursed to any organization operated exclusively for religious, charitable, community, or educational purposes where the award or disbursement is made with the intent of circumventing the provisions of this section by indirectly providing benefits or assistance of the type to which persons are otherwise ineligible.

§ 63.2-503.1. Legal presence required for public assistance; exceptions; proof of legal presence.

A. In addition to meeting the existing eligibility requirements of the benefits applied for, no person who is not a United States Citizen or legally present in the United States shall receive state or local public assistance pursuant to this subtitle, except for state or local public assistance that is mandated by Federal Law pursuant to 8 U.S.C. § 1621.

B. In addition to providing proof of other eligibility requirements, at the time of application for any state or local public benefit, an applicant who is 19 years of age or older shall provide affirmative proof that he is a U.S. citizen or is legally present in the United States. Such affirmative proof shall consist of documentary evidence as required pursuant to § 46.2-328.1 or a social security number as verified by the Social Security Administration. An applicant who is under the age of 19 years shall not be required to provide such affirmative proof; however, such person upon reaching the age of 19 years shall comply with the provisions of this section.

An applicant who cannot provide proof that he is a citizen or legally present at the time of application shall sign an affidavit under oath attesting that he is a U.S. citizen or legally present in the United States in order to receive temporary benefits as provided in this section. The affidavit shall be on or consistent with forms prepared by the Commissioner, and shall be subject to and include an explanation of the provisions of § 63.2-502 relating to penalties for knowingly providing false information on a public document. The agency shall report in writing to the appropriate attorney for the Commonwealth those who are determined to have falsely attested to lawful presence.

Once an applicant has provided the sworn affidavit required by this subsection, he shall be eligible to receive temporary benefits for either:

1. Ninety days or until such time that it is determined that he is not legally present in the United States, whichever is earlier, or

2. Indefinitely if the applicant provides a copy of a completed application for a birth certificate that

INTRODUCED

HB2937

59 has been filed and is pending and being actively pursued in accordance with § 32.1-259 or 32.1-260 or
60 any substantially similar law of another state, the District of Columbia, or United States territory or
61 commonwealth. Such extension shall terminate upon the applicant's receipt of a birth certificate or a
62 determination that a birth certificate does not exist because the applicant is not a United States citizen.

63 C. The provisions of subsection B shall not apply to persons applying for benefits exempted by
64 subsection A of this section and subsection A of § 32.1-325.03.

65 *D. No state or local funds shall be awarded or otherwise disbursed to any organization operated*
66 *exclusively for religious, charitable, community, or educational purposes where the award or*
67 *disbursement is made with the intent of circumventing the provisions of this section by indirectly*
68 *providing benefits or assistance of the type to which persons are otherwise ineligible.*