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1   **HOUSE BILL NO. 1026**
2   Offered January 9, 2008
3   Prefiled January 8, 2008
4   *A BILL to amend and reenact §§ 32.1-325.03 and 63.2-503.1 of the Code of Virginia, and to amend the*
5   *Code of Virginia by adding a section numbered 15.2-110 in Chapter 1 of Title 15.2, relating to*
6   *restrictions on granting public benefits.*
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     Patron—Frederick
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9   Referred to Committee on Rules
10   ⸺⸺⸺⸺
11   **Be it enacted by the General Assembly of Virginia:**
12   **1. That §§ 32.1-325.03 and 63.2-503.1 of the Code of Virginia is amended and reenacted, and that**
13   **the Code of Virginia is amended by adding a section numbered 15.2-110 in Chapter 1 of Title 15.2**
14   **as follows:**
15   *§ 15.2-110. Restrictions on public benefits; penalty.*
16   *No locality shall grant any public benefits, including any state benefit processed and approved by a*
17   *local department, without first determining whether the person is a United States citizen or otherwise*
18   *legally present in the United States. Failure to do so prior to granting of such benefit shall result in the*
19   *termination of all funds appropriated to the locality in the general appropriations act, except for such*
20   *funding required by the Constitution of Virginia and federal law.*
21   § 32.1-325.03. Legal presence required for certain state and local public benefits; exceptions;
22   definitions; proof of legal presence.
23   A. In addition to meeting the existing eligibility requirements of the benefits applied for, no person
24   who is not a United States Citizen or legally present in the United States shall receive medical services
25   under this chapter, except for the following:
26   1. Medicaid benefits for those residing in long-term institutional facilities or participating in home
27   and community based waivers on June 30, 1997, who were eligible for full Medicaid benefits shall
28   continue to be eligible for Medicaid benefits at state expense if federal financial participation is not
29   available;
30   2. Medicaid benefits for those who because of alien requirements pursuant to the federal Personal
31   Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193) (i) are under the
32   age of 19 years and (ii) would be eligible for full Medicaid benefits if the alien requirements prior to
33   the passage of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 were still
34   in effect. However, such person upon reaching the age of 19 years shall comply with the provisions of
35   this section; and
36   3. State or local public benefits that are mandated by Federal Law pursuant to 8 U.S.C. § 1621.
37   B. The determination of eligibility for public benefits as provided in this chapter shall be subject to
38   the provisions of § 63.2-503.1, as applicable.
39   *D. Failure of any local department to determine immigration status pursuant to this section prior to*
40   *granting any benefit shall result in the termination of all funds appropriated to the locality in the*
41   *general appropriations act, except for such funding as is required by the Constitution of the*
42   *Commonwealth and federal law.*
43   § 63.2-503.1. Legal presence required for public assistance; exceptions; proof of legal presence.
44   A. In addition to meeting the existing eligibility requirements of the benefits applied for, no person
45   who is not a United States Citizen or legally present in the United States shall receive state or local
46   public assistance pursuant to this subtitle, except for state or local public assistance that is mandated by
47   Federal Law pursuant to 8 U.S.C. § 1621.
48   B. In addition to providing proof of other eligibility requirements, at the time of application for any
49   state or local public benefit, an applicant who is 19 years of age or older shall provide affirmative proof
50   that he is a U.S. citizen or is legally present in the United States. Such affirmative proof shall consist of
51   documentary evidence as required pursuant to § 46.2-328.1 or a social security number as verified by the
52   Social Security Administration. An applicant who is under the age of 19 years shall not be required to
53   provide such affirmative proof; however, such person upon reaching the age of 19 years shall comply
54   with the provisions of this section.
55   An applicant who cannot provide proof that he is a citizen or legally present at the time of
56   application shall sign an affidavit under oath attesting that he is a U.S. citizen or legally present in the
57   United States in order to receive temporary benefits as provided in this section. The affidavit shall be on
58   or consistent with forms prepared by the Commissioner, and shall be subject to and include an

59 explanation of the provisions of § 63.2-502 relating to penalties for knowingly providing false
60 information on a public document. The agency shall report in writing to the appropriate attorney for the
61 Commonwealth those who are determined to have falsely attested to lawful presence.
62   Once an applicant has provided the sworn affidavit required by this subsection, he shall be eligible to
63 receive temporary benefits for either:
64   1. Ninety days or until such time that it is determined that he is not legally present in the United
65 States, whichever is earlier, or
66   2. Indefinitely if the applicant provides a copy of a completed application for a birth certificate that
67 has been filed and is pending and being actively pursued in accordance with § 32.1-259 or 32.1-260 or
68 any substantially similar law of another state, the District of Columbia, or United States territory or
69 commonwealth. Such extension shall terminate upon the applicant's receipt of a birth certificate or a
70 determination that a birth certificate does not exist because the applicant is not a United States citizen.
71   C. The provisions of subsection B shall not apply to persons applying for benefits exempted by
72 subsection A of this section and subsection A of § 32.1-325.03.
73   *D. Failure of a local department to determine immigration status pursuant to this section prior to*
74 *granting any benefit shall result in the termination of all funds appropriated to the locality in the*
75 *general appropriations act, except for such funding as is required by the Constitution of the*
76 *Commonwealth and federal law.*