

081018640

HOUSE BILL NO. 439

Offered January 9, 2008

Prefiled January 4, 2008

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

Patrons—Miller, J.H., Athey, Carrico, Cole, Cosgrove, Crockett-Stark, Gilbert, Kilgore, Lingamfelter, Lohr, Massie, Merricks, Morgan and Sherwood

Referred to Committee on Rules

Be it enacted by the General Assembly of Virginia:**1. That § 63.2-503.1 of the Code of Virginia is amended and reenacted as follows:**

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

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

D. No state or local funds shall be awarded or otherwise disbursed to any organization when the award or disbursement is made to circumvent the provisions of this section by enabling such organization to provide the type of benefits or assistance to those persons who are otherwise ineligible. Further, no organization receiving state or local funds shall use the funds to provide the type of benefits or assistance to those persons who are otherwise ineligible.

INTRODUCED

HB439