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**HOUSE BILL NO. 1468**

Offered January 12, 2011

Prefiled December 7, 2010

*A BILL to amend and reenact § 63.2-503.1 of the Code of Virginia, relating to legal presence required for public benefits; verification required.*

Patrons—Albo, Anderson, Athey, Bell, Richard P., Bell, Robert B., Cosgrove, Cox, J.A., Gilbert, Hugo, Iaquinto, Landes, Lingamfelter, Merricks, Miller, J.H., Peace, Poindexter, Robinson and Wilt

Referred to Committee for Courts of Justice

**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. *Local departments shall verify or cause to be verified information regarding an applicant's citizenship or legal presence in the United States prior to initiating provision of benefits, except as provided in subsection C or in cases involving assistance mandated by federal law.*

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.

C. 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.D.~~ 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.

**2. That the Governor may withhold the appropriation of state funds under his control to any agency, political subdivision of the Commonwealth, or locality in violation of this act, or to any agency, political subdivision of the Commonwealth, or locality whose employee is in violation of this act, in an amount deemed sufficient to ensure compliance, and shall release the funds to the entity when compliance is achieved.**

INTRODUCED

HB1468