

Hall of the House of Representatives

86th General Assembly - Regular Session, 2007

Amendment Form

Subtitle of House Bill No. 2781

"AN ACT TO AMEND ARKANSAS LAW TO REQUIRE STATE AGENCIES TO DOCUMENT THE TYPES AND DOLLAR AMOUNT OF SERVICES PROVIDED TO ILLEGAL ALIENS."

Amendment No. 1 to House Bill No. 2781.

Amend House Bill No. 2781 as originally introduced:

Page 1, delete line 9 and substitute the following:

"AN ACT REQUIRING VERIFICATION OF CITIZENSHIP WHEN PROVIDING CERTAIN PUBLIC BENEFITS; REQUIRING STATE"

AND

Page 1, delete lines 15 through 18 and substitute the following:

"AN ACT TO AMEND ARKANSAS LAW CONCERNING VERIFICATION OF CITIZENSHIP WHEN PROVIDING CERTAIN PUBLIC BENEFITS AND DOCUMENTATION OF THE TYPES AND DOLLAR AMOUNT OF SERVICES PROVIDED TO ILLEGAL ALIENS."

AND

Delete everything following the enacting clause and substitute the following:

"SECTION 1. Verification of citizenship when providing certain public benefits.

(a) As used in this section:

(1) "Political subdivision" means any county, municipality, township, or other specific local unit of general government; and

(2) "State agency" means any office, department, board, commission, bureau, division, public corporation, agency, or instrumentality of this state.

(b) Except as provided in subsection (d) of this section or when exempted by federal law, every state agency or political subdivision of this state shall verify the lawful presence in the United States of any natural person fourteen (14) years of age or older who has applied for state or local public benefits, as defined in 8 U.S.C. § 1621 as it existed on January 1, 2007, or for federal public benefits, as defined in 8 U.S.C. § 1611 as it existed on January 1, 2007, that is administered by a state agency or a political subdivision of this state.



(c) The provisions of this section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

(d) Verification of lawful presence under this section shall not be required for:

(1) Any purpose for which lawful presence in the United States is not restricted by law, ordinance, or regulation;

(2) Assistance for health care items and services that are necessary for the treatment of an emergency medical condition, as defined in 42 U.S.C. § 1396b(v)(3) as it existed on January 1, 2007, of the person involved and are not related to an organ transplant procedure;

(3) Short-term, noncash, in-kind emergency disaster relief;

(4) Public health assistance for immunizations with respect to diseases and for testing and treatment of symptoms of communicable diseases whether or not the symptoms are caused by a communicable disease;

(5) Programs, services, or assistance such as soup kitchens, crisis counseling and intervention, and short-term shelter specified by the United States Attorney General, in the sole and unreviewable discretion of the United States Attorney General after consultation with appropriate federal agencies and departments, which:

(A) Deliver in-kind services at the community level, including through public or private nonprofit agencies;

(B) Do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the income or resources of the individual recipient; and

(C) Are necessary for the protection of life or safety; or

(6) Prenatal care.

(e) Verification of lawful presence in the United States by the state agency or political subdivision required to make the verification shall require that the applicant execute an affidavit under penalty of perjury that:

(1) He or she is a United States citizen; or

(2) He or she is a qualified alien under the federal Immigration and Nationality Act and is lawfully present in the United States.

(f)(1) For any applicant who has executed the affidavit described in subdivision (e)(2) of this section, eligibility for benefits shall be made through the Systematic Alien Verification of Entitlements program operated by the United States Department of Homeland Security or a successor program designated by the United States Department of Homeland Security.

(2) Until the eligibility verification is made, the affidavit may be presumed to be proof of lawful presence for the purposes of this section.

(g) Each state agency or political subdivision of this state shall document and maintain the types of benefits and dollar amount of benefits provided to persons who are found to be present in the United States unlawfully.

(h)(1) Any person who knowingly makes a false, fictitious, or fraudulent statement of representation in an affidavit executed under subsection (e) of this section shall be subject to criminal penalties applicable in this state for fraudulently obtaining public assistance program benefits.

(2) If the affidavit constitutes a false claim of United States citizenship under 18 U.S.C. § 911 as it existed on January 1, 2007, a

complaint shall be filed by the state agency or political subdivision requiring the affidavit with either the United States Attorney for the Eastern District of Arkansas or the United States Attorney for the Western District of Arkansas.

(i) A state agency or political subdivision of this state may adopt variations to this section:

(1) That demonstrably improve the efficiency or reduce delay in the verification process; or

(2) To provide for adjudication of unique individual circumstances where the verification procedures in this section would impose unusual hardship on a legal resident of Arkansas.

(j)(1) It shall be unlawful for any state agency or political subdivision of this state to provide any state, local, or federal benefit, as defined in 8 U.S.C. § 1621 as it existed on January 1, 2007 or 8 U.S.C. § 1611 as it existed on January 1, 2007, in violation of the provisions of this section.

(2) A violation of this section shall be a Class A misdemeanor.

(k)(1) Each state agency or political subdivision of this state that administers any program of state or local public benefits shall provide an annual report to the Attorney General of the State of Arkansas concerning compliance with the provisions of this section, including without limitation the types and dollar amount of benefits provided to persons who are found to be present in the United States unlawfully as documented under subsection (g) of this section.

(2) Any errors shall be reported to the United States Department of Homeland Security by the Attorney General of the State of Arkansas.”

The Amendment was read _____
By: Representative Woods
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Chief Clerk