

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 86th General Assembly  
3 Regular Session, 2007  
4

As Engrossed: H3/26/07 H3/29/07

# A Bill

HOUSE BILL 2781

5 By: Representative Woods  
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7

## For An Act To Be Entitled

9 AN ACT REQUIRING VERIFICATION OF CITIZENSHIP WHEN  
10 PROVIDING CERTAIN PUBLIC BENEFITS; REQUIRING  
11 STATE AGENCIES TO DOCUMENT THE TYPES AND DOLLAR  
12 AMOUNT OF SERVICES PROVED TO ILLEGAL ALIENS;  
13 AND FOR OTHER PURPOSES.  
14

## Subtitle

15 AN ACT TO AMEND ARKANSAS LAW CONCERNING  
16 VERIFICATION OF CITIZENSHIP WHEN  
17 PROVIDING CERTAIN PUBLIC BENEFITS AND  
18 DOCUMENTATION OF THE TYPES AND DOLLAR  
19 AMOUNT OF SERVICES PROVIDED TO ILLEGAL  
20 ALIENS.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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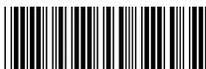
26 SECTION 1. Verification of citizenship when providing certain public  
27 benefits.

28 (a) As used in this section:

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

31 (2) “State agency” means any office, department, board,  
32 commission, bureau, division, public corporation, agency, or instrumentality  
33 of this state.

34 (b) Except as provided in subsection (d) of this section or when  
35 exempted by federal law, every state agency or political subdivision of this  
36 state shall verify the lawful presence in the United States of any natural



1 person fourteen (14) years of age or older who has applied for state or local  
2 public benefits, as defined in 8 U.S.C. § 1621(c)(1)(B) as it existed on  
3 January 1, 2007, or for federal public benefits, as defined in 8 U.S.C. §  
4 1611(c)(1)(B) as it existed on January 1, 2007, that is administered by a  
5 state agency or a political subdivision of this state.

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

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

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

12 (2) Assistance for health care items and services that are  
13 necessary for the treatment of an emergency medical condition, as defined in  
14 42 U.S.C. § 1396b(v)(3) as it existed on January 1, 2007, of the person  
15 involved and are not related to an organ transplant procedure;

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

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

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

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

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

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

31 (6) Prenatal care.

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

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

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

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

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

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

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

20           (2) If the affidavit constitutes a false claim of United States  
21 citizenship under 18 U.S.C. § 911 as it existed on January 1, 2007, a  
22 complaint shall be filed by the state agency or political subdivision  
23 requiring the affidavit with either the United States Attorney for the  
24 Eastern District of Arkansas or the United States Attorney for the Western  
25 District of Arkansas.

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

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

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

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

1 provisions of this section.

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

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

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

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13 /s/ Woods  
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