

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 403

Introduced by Karpisek, 32; at the request of the Governor.

Read first time January 16, 2009

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to illegal aliens; to require verification of
- 2 lawful presence in the United States as prescribed; and
- 3 to require a report.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) Notwithstanding any other provisions of
2 law, unless exempted from verification under section 3 of this
3 act or pursuant to federal law, no state agency or political
4 subdivision of the State of Nebraska shall provide public benefits
5 to a person not lawfully present in the United States.

6 (2) Except as provided in section 3 of this act or if
7 exempted by federal law, every agency or political subdivision of
8 the State of Nebraska shall verify the lawful presence in the
9 United States of any person who has applied for public benefits
10 administered by an agency or a political subdivision of the State
11 of Nebraska. This section shall be enforced without regard to race,
12 religion, gender, ethnicity, or national origin.

13 Sec. 2. For purposes of sections 1 to 6 of this act,
14 public benefits means any grant, contract, loan, professional
15 license, commercial license, retirement benefit, welfare benefit,
16 health benefit, disability benefit, public or assisted housing
17 benefit, postsecondary education benefit, food assistance benefit,
18 or unemployment benefit or any other similar benefit provided by or
19 for which payments or assistance are provided to an individual, a
20 household, or a family eligibility unit by an agency of the United
21 States, the State of Nebraska, or a political subdivision of the
22 State of Nebraska.

23 Sec. 3. Verification of lawful presence in the United
24 States pursuant to section 1 of this act is not required for:

25 (1) Any purpose for which lawful presence in the United

1 States is not restricted by law, ordinance, or regulation;

2 (2) Assistance for health care services and products,
3 not related to an organ transplant procedure, that are necessary
4 for the treatment of an emergency medical condition, including
5 emergency labor and delivery, manifesting itself by acute symptoms
6 of sufficient severity, including severe pain, such that the
7 absence of immediate medical attention could reasonably be expected
8 to result in (a) placing the patient's health in serious jeopardy,
9 (b) serious impairment to bodily functions, or (c) serious
10 dysfunction of any bodily organ or part;

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

13 (4) Public health assistance for immunizations with
14 respect to diseases and for testing and treatment of symptoms
15 of communicable diseases, whether or not such symptoms are caused
16 by a communicable disease; or

17 (5) Programs, services, or assistance necessary for the
18 protection of life or safety, such as soup kitchens, crisis
19 counseling and intervention, and short-term shelter, which (a)
20 deliver in-kind services at the community level, including those
21 which deliver such services through public or private, nonprofit
22 agencies and (b) do not condition the provision of assistance, the
23 amount of assistance provided, or the cost of assistance provided
24 on the income or resources of the recipient.

25 Sec. 4. Verification of lawful presence in the United

1 States pursuant to section 1 of this act requires that the
2 applicant for public benefits execute an affidavit, on a form
3 prescribed by the Department of Administrative Services attesting
4 that:

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

6 (2) He or she is a qualified alien under the federal
7 Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act
8 existed on January 1, 2009, and is lawfully present in the United
9 States.

10 A state agency or political subdivision of the State
11 of Nebraska may adopt and promulgate rules and regulations or
12 procedures for the electronic filing and execution of an affidavit
13 required under this section if such an affidavit is substantially
14 similar to the affidavit form prescribed by the Department of
15 Administrative Services.

16 Sec. 5. For any applicant who has executed an affidavit
17 described in subdivision (2) of section 4 of this act, eligibility
18 for public benefits shall be verified through the Systematic Alien
19 Verification for Entitlements Program operated by the United States
20 Department of Homeland Security or an equivalent program designated
21 by the United States Department of Homeland Security. Until such
22 verification of eligibility is made, such affidavit may be presumed
23 to be proof of lawful presence for purposes of sections 1 to 6 of
24 this act unless such verification is required before providing the
25 public benefit under another provision of state or federal law.

1 Sec. 6. Each state agency which administers any program
2 of public benefits shall provide an annual report not later than
3 January 31 for the prior year to the Governor and the Clerk of the
4 Legislature with respect to compliance with sections 1 to 6 of this
5 act. The report shall include, but not be limited to, the total
6 number of applicants for benefits and the number of applicants
7 rejected pursuant to such sections.