

LEGISLATURE OF NEBRASKA
ONE HUNDREDTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 963

Introduced by Friend, 10; Erdman, 47; Lautenbaugh, 18; Pahls, 31;
at the request of the Governor.

Read first time January 15, 2008

Committee: Judiciary

A BILL

1 FOR AN ACT relating to governmental agencies; to amend section
2 85-502, Revised Statutes Cumulative Supplement, 2006; to
3 define terms; to require verification of lawful presence
4 in the United States as prescribed; to provide exemptions
5 and procedures; to provide powers and duties; to require
6 a report; to harmonize provisions; and to repeal the
7 original section.

8 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 federal, state,
5 or local public benefits to a person not lawfully present in the
6 United States.

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

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

25 Sec. 3. Verification of lawful presence in the United

1 States pursuant to section 1 of this act is not required for:

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

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

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

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

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

1 on the income or resources of the recipient.

2 Sec. 4. Verification of lawful presence in the United
3 States pursuant to section 1 of this act requires that the
4 applicant for benefits execute an affidavit, on a form prescribed
5 by the Department of Administrative Services, under penalty of
6 perjury, attesting that:

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

8 (2) He or she is a qualified alien under the federal
9 Immigration and Nationality Act, 8 U.S.C. 1101 et seq., as such act
10 existed on January 1, 2008, and is lawfully present in the United
11 States.

12 Sec. 5. For any applicant who has executed an affidavit
13 described in subdivision (2) of section 4 of this act, eligibility
14 for benefits shall be verified through the Systematic Alien
15 Verification for Entitlements Program operated by the United States
16 Department of Homeland Security or an equivalent program designated
17 by the department. Until such verification of eligibility is made,
18 such affidavit may be presumed to be proof of lawful presence for
19 purposes of sections 1 to 6 of this act.

20 Sec. 6. Each state agency which administers any program
21 of federal, state, or local public benefits shall provide an annual
22 report not later than January 31 for the prior year to the Governor
23 and the Clerk of the Legislature with respect to compliance with
24 sections 1 to 6 of this act. The report shall include, but not be
25 limited to, the total number of applicants for benefits and the

1 number of applicants rejected pursuant to such sections.

2 Sec. 7. Section 85-502, Revised Statutes Cumulative
3 Supplement, 2006, is amended to read:

4 85-502 Rules and regulations established by the governing
5 board of each state postsecondary educational institution shall
6 require as a minimum that a person is not deemed to have
7 established a residence in this state, for purposes of sections
8 85-501 to 85-504, unless such person is lawfully present in the
9 United States and:

10 (1) Such person is of legal age or is an emancipated
11 minor and has established a home in Nebraska where he or she
12 is habitually present for a minimum period of one hundred eighty
13 days, with the bona fide intention of making this state his or her
14 permanent residence, supported by documentary proof;

15 (2) The parents, parent, or guardian having custody of a
16 minor registering in the educational institution have established
17 a home in Nebraska where such parents, parent, or guardian are
18 or is habitually present with the bona fide intention to make
19 this state their, his, or her permanent residence, supported by
20 documentary proof. If a student has matriculated in any state
21 postsecondary educational institution while his or her parents,
22 parent, or guardian had an established home in this state, and the
23 parents, parent, or guardian ceases to reside in the state, such
24 student shall not thereby lose his or her resident status if such
25 student has the bona fide intention to make this state his or her

1 permanent residence, supported by documentary proof;

2 (3) Such student is of legal age and is a dependent for
3 federal income tax purposes of a parent or former guardian who
4 has established a home in Nebraska where he or she is habitually
5 present with the bona fide intention of making this state his or
6 her permanent residence, supported by documentary proof;

7 (4) Such student is a nonresident of this state prior
8 to marriage and marries a person who has established a home in
9 Nebraska where he or she is habitually present with the bona fide
10 intention of making this state his or her permanent residence,
11 supported by documentary proof;

12 (5) ~~Except as provided in subdivision (8) of this~~
13 ~~section, such~~ Such student, if an alien, has applied to ~~or~~
14 has a petition pending with the United States Immigration and
15 Naturalization Service to attain lawful status under federal
16 ~~immigration law and~~ has established a home in Nebraska for a
17 period of at least one hundred eighty days where he or she is
18 habitually present with the bona fide intention to make this state
19 his or her permanent residence, supported by documentary proof;

20 (6) Such student is a staff member or a dependent of a
21 staff member of the University of Nebraska, one of the Nebraska
22 state colleges, or one of the community college areas who joins
23 the staff immediately prior to the beginning of a term from an
24 out-of-state location; or

25 (7) Such student is on active duty with the armed

1 services of the United States and has been assigned a permanent
2 duty station in Nebraska, or is a legal dependent of a person on
3 active duty with the armed services of the United States assigned a
4 permanent duty station in Nebraska. ~~or~~

5 ~~(8)(a) Such student resided with his or her parent,~~
6 ~~guardian, or conservator while attending a public or private high~~
7 ~~school in this state and:~~

8 ~~(i) Graduated from a public or private high school in~~
9 ~~this state or received the equivalent of a high school diploma in~~
10 ~~this state;~~

11 ~~(ii) Resided in this state for at least three years~~
12 ~~before the date the student graduated from the high school or~~
13 ~~received the equivalent of a high school diploma;~~

14 ~~(iii) Registered as an entering student in a state~~
15 ~~postsecondary educational institution not earlier than the 2006~~
16 ~~fall semester; and~~

17 ~~(iv) Provided to the state postsecondary educational~~
18 ~~institution an affidavit stating that he or she will file~~
19 ~~an application to become a permanent resident at the earliest~~
20 ~~opportunity he or she is eligible to do so.~~

21 ~~(b) If the parent, guardian, or conservator with whom the~~
22 ~~student resided ceases to reside in the state, such student shall~~
23 ~~not lose his or her resident status under this subdivision if the~~
24 ~~student has the bona fide intention to make this state his or her~~
25 ~~permanent residence, supported by documentary proof.~~

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1 Sec. 8. Original section 85-502, Revised Statutes
2 Cumulative Supplement, 2006, is repealed.