

HOUSE BILL No. 2945

By Representative Merrick

2-14

9 AN ACT relating to the eligibility of certain aliens for state and local
10 public benefits; concerning verification of claims of legal domicile or
11 residence; providing for exceptions; providing penalties for violations.
12

13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. (a) As used in this act, "state or local public benefit" shall
15 have the meaning ascribed to such term under 8 U.S.C. 1621.

16 (b) In addition to meeting the existing eligibility requirements of state
17 or local public benefits applied for, no person who is not a United States
18 citizen or legally present in the United States shall receive medical serv-
19 ices under this act, except for the following:

20 (1) Medicaid benefits for those residing in long-term care facilities
21 or participating in home and community based waivers on June 30, 1997,
22 who were eligible for full medicaid benefits shall continue to be eligible
23 for medicaid benefits as state expense if federal financial participation is
24 not available;

25 (2) medicaid benefits for non-United States citizens who because of
26 requirements pursuant to the federal personal responsibility and work
27 opportunity reconciliation act of 1996 (Public Law 104-193) (A) are under
28 the age of 18 years and (B) would be eligible for full medicaid benefits if
29 the alien requirements prior to the passage of the personal responsibility
30 and work opportunity reconciliation act of 1996 were still in effect. How-
31 ever, such persons upon reaching the age of 18 years shall comply with
32 the provisions of this section; and

33 (3) state or local public benefits that are mandated by federal law
34 pursuant to 8 U.S.C. § 1621, or public benefits mandated by federal law
35 pursuant to 8 U.S.C. § 1611.

36 (c) The determination of eligibility for public benefits as provided in
37 this act shall be subject to the provisions of section 2, and amendments
38 thereto as applicable.

39 Sec. 2. (a) In addition to meeting the existing eligibility requirements
40 of the benefits applied for, no person who is not a United States citizen
41 or legally present in the United States shall receive state or local public
42 benefits pursuant to this act, except for state or local public benefits man-
43 dated by federal law pursuant to 8 U.S.C. § 1621 or pursuant to 8 U.S.C.

1 § 1611.

2 (b) In the case of an applicant for a state or local public benefit as
3 defined in 8 U.S.C. § 1621 or 8 U.S.C. § 1611 that is administered by an
4 agency of this state or a political subdivision thereof, verification de-
5 scribed in this act shall be made through the systematic alien verification
6 system of entitlement (SAVE) program operated by the United States
7 department of homeland security, or any other such program designated
8 for that purpose by the United States department of homeland security.

9 (c) (1) In addition to providing proof of other eligibility requirements,
10 at the time of application for any state or local public benefit, an applicant
11 who is not a minor or ward of the state shall provide affirmative proof
12 that the applicant is a United States citizen or is legally present in the
13 United States. Such affirmative proof shall consist of documentary evi-
14 dence that shall be included on the list of documents to be created, main-
15 tained and published by the state agency or political subdivision as proof
16 of lawful presence in the United States, or a valid social security number
17 as verified by the social security administration.

18 (2) An applicant who is a minor shall not be required to provide such
19 affirmative proof; however, such persons upon reaching the age of 18
20 years shall comply with the provisions of this section.

21 (3) Any drivers' license or identification card issued by any state
22 which, on or after the effective date of this act, authorized such drivers'
23 license or identification card to be issued to persons not lawfully present
24 in the United States, may not be accepted as evidence of lawful presence
25 in the United States.

26 (4) Provisions of this act shall be enforced without regard to race,
27 religion, gender, ethnicity or national origin.

28 (d) (1) Any applicant who cannot provide proof that the applicant is
29 a United States citizen or legally present at the time of application may
30 alternatively sign an affidavit under oath attesting that the applicant is a
31 United States citizen or legally present in the United States in order to
32 receive temporary benefits as provided in this section. The affidavit shall
33 be subject to and include an explanation of the provisions of section 2,
34 and amendments thereto, and shall delineate any such penalties for know-
35 ingly providing false information on a public document.

36 (2) Discovery by an agency of this state or any political subdivision
37 thereof that an applicant subject to the verification requirements of this
38 section has failed to establish lawful presence in the United States shall
39 be reported to the department of administration and to the United States
40 department of homeland security.

41 (3) Pursuant to the provisions of this act, the department of admin-
42 istration shall issue rules and regulations, after opportunity for public
43 notice and hearing, to implement the provisions of this act. These regu-

1 lations shall be issued within 180 days after the effective date of this act
2 and shall apply to all agencies of this state and its political subdivisions.

3 (4) With concurrence of the department of administration, other
4 agencies of this state and political subdivisions may adopt variations to
5 such rules and regulations to improve efficiency or to reduce delay in the
6 verification process, or to provide for adjudication of unique circum-
7 stances where the verification procedures in this act would impose undue
8 hardship on any United States citizen, or alien lawfully present in the
9 United States.

10 (e) (1) It shall be unlawful for any person to knowingly present a
11 personal identification document issued by a foreign government, other
12 than an unexpired passport, or other document approved for such pur-
13 poses by treaty, as evidence or proof of legal residence or domicile in the
14 state of Kansas for any purpose. Any person who violates the provisions
15 of this section shall be guilty of a class A misdemeanor.

16 (2) Any person who believes that an agency or political subdivision of
17 this state has failed to comply with the requirements of this subsection,
18 may file a complaint in writing with the agency or political subdivision.
19 At a minimum, all such complaints shall include the time, place and man-
20 ner of the violation charged. After such complaint has been filed, the
21 agency or political subdivision charged shall provide a response in writing
22 within 60 days of receipt of the complaint, or within 30 days in the case
23 of a complaint of an erroneous determination that the person is not law-
24 fully present in the United States.

25 (f) A person with reasonable cause to believe that an agency or po-
26 litical subdivision of this state is engaged in any act or practice in violation
27 of the provisions of section 1 or 2, and amendments thereto, within 60
28 days after the receipt of the written response to such person's complaint
29 under subsection (e)(2), may seek relief from the district court having
30 jurisdiction of the matter to remedy the failure giving rise to their com-
31 plaint, including mandamus, injunctive relief and attorney fees and costs.

32 Sec. 3. This act shall take effect and be in force from and after its
33 publication in the statute book.