

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

S

1

SENATE BILL 976

Short Title: Taxpayer and Citizen Protection Act. (Public)

Sponsors: Senators Webster; Allran, Berger of Rockingham, Bingham, Brock, East, Forrester, Garwood, Goodall, and Tillman.

Referred to: Judiciary I.

March 24, 2005

A BILL TO BE ENTITLED

1
2 AN ACT TO ENACT THE NORTH CAROLINA TAXPAYER AND CITIZEN
3 PROTECTION ACT, TO REQUIRE PROOF OF CITIZENSHIP TO REGISTER
4 TO VOTE, AND TO PROVIDE THAT TO RECEIVE CERTAIN PUBLIC
5 BENEFITS, AN APPLICANT FOR PUBLIC ASSISTANCE PROGRAM
6 BENEFITS MUST PROVIDE PROOF THAT THE APPLICANT IS A UNITED
7 STATES CITIZEN OR, IF NOT A UNITED STATES CITIZEN, IS LAWFULLY
8 PRESENT IN THE UNITED STATES UNDER FEDERAL LAW; TO PROVIDE
9 FOR TEMPORARY BENEFITS TO BE PAID IN CASES WHERE THE
10 APPLICANT CANNOT PROVIDE PROOF AT THE TIME OF APPLICATION;
11 TO REQUIRE CERTAIN STATE AGENCIES TO COOPERATE WITH LOCAL
12 GOVERNMENTS AND THE UNITED STATES DEPARTMENT OF
13 HOMELAND SECURITY TO DEVELOP A SYSTEM FOR VERIFYING
14 LAWFUL PRESENCE IN THE UNITED STATES; TO PROVIDE THAT A
15 PERSON WHO WILLFULLY EMPLOYS AN INDIVIDUAL WHO IS INDIGENT
16 AND IS NOT LAWFULLY PRESENT IN THE UNITED STATES SHALL BE
17 RESPONSIBLE FOR THE COST OF MEDICALLY NECESSARY SERVICES
18 TO THE INDIVIDUAL EMPLOYED; AND TO AUTHORIZE ANY
19 INDIVIDUAL TO FILE A COMPLAINT WITH THE AFFECTED STATE
20 AGENCY FOR ITS FAILURE TO COMPLY WITH THIS ACT.

21 The General Assembly of North Carolina enacts:

22 **SECTION 1.** Short title. This act may be cited as the "North Carolina
23 Taxpayer and Citizen Protection Act".

24 **SECTION 2.** Findings and declaration. This State finds that illegal
25 immigration is causing economic hardship and lawlessness in this State and that illegal
26 immigration is encouraged by public agencies within this State that provide public
27 benefits without verifying immigration status. This State further finds that illegal
28 immigrants have been harbored and sheltered in this State and encouraged and induced

1 to reside in this State through the issuance of identification cards that are issued without
2 verifying immigration status, and that these practices impede and obstruct federal
3 immigration law, undermine the security of our borders, and impermissibly restrict the
4 privileges and immunities of the citizens of North Carolina. Therefore, the people of
5 this State declare that it is a compelling public interest of this State to discourage illegal
6 immigration by requiring all public agencies within this State to cooperate with federal
7 immigration authorities.

8 **SECTION 3.** G.S. 163-82.4(a) is amended by adding a new subdivision to
9 read:

10 "(11) A statement that the applicant shall submit evidence of United States
11 citizenship with the application and that the application shall be
12 rejected if no evidence of citizenship is attached."

13 **SECTION 4.** Article 7A of Chapter 163 of the General Statutes is amended
14 by adding a new section to read:

15 **§ 163-82.6A. Proof of citizenship.**

16 (a) A county board of elections shall reject any application for registration that is
17 not accompanied by satisfactory evidence of United States citizenship.

18 (b) A county board of elections shall, within 180 days of the effective date of this
19 Act, compile and publish a list of approved documents, or a combination of approved
20 documents, that establish satisfactory evidence of United States citizenship.

21 (1) The board of elections may, at least 180 days prior to the date of a
22 general election, amend the list of approved documents.

23 (2) In compiling or amending the list of approved documents, the board of
24 elections shall give due consideration to facilitating voter registration
25 by all citizens as well as the deterrence and prevention of fraudulent
26 registration by unauthorized persons, and shall provide an opportunity
27 for submission of public comments by interested citizens.

28 (3) The Board of Elections shall ensure that the list of approved
29 documents conforms to all relevant federal and State laws protecting
30 the voting rights of United States citizens.

31 (c) Notwithstanding subsection (a) of this section, any person who is registered
32 in this State on the effective date of this section is deemed to have provided satisfactory
33 evidence of citizenship and shall not be required to resubmit evidence of citizenship
34 unless the person is registering in another county.

35 (d) For the purposes of this section, proof of voter registration from another state
36 or county is not satisfactory evidence of citizenship.

37 (e) After a person has submitted satisfactory evidence of citizenship, the board of
38 elections shall indicate this information in the person's permanent voter file. After two
39 years, the board of elections may destroy all documents that were submitted as evidence
40 of citizenship."

41 **SECTION 2.** Article 2 of Chapter 108A of the General Statutes is amended
42 by adding the following new section to read:

43 **§ 108A-25.4. Proof of lawful presence required for State and local programs of**
44 **public assistance; temporary assistance; system for verifying lawful**

presence; exceptions to application of this section; employer liable for medical services to indigent employees not lawfully present.

(a) At the time of application for public assistance program benefits or for an identification document issued by the State or political subdivision of the State, an applicant shall provide affirmative proof that the applicant is a citizen of the United States or is lawfully present in the United States under federal immigration law. The affirmative proof shall consist of any valid document or combination of valid documents recognized by the Division of Motor Vehicles under G.S. 20-7(b3). The State or local government agency responsible for administering a program of public assistance shall not provide public assistance program benefits to an applicant unless or until the applicant has met the requirements of this section. A State or local government agency administering public assistance benefits shall not accept an identification card issued by a State or local government agency, including a drivers license, to establish identity or determine eligibility of public assistance benefits unless the State or local government agency that issued the card has verified the immigration status of the applicant.

(1) An applicant who cannot provide the proof required under this subsection at the time of application may alternatively sign an affidavit under oath, attesting to either United States citizenship or to classification by the United States as an alien lawfully admitted for permanent residence, in order to receive temporary benefits or a temporary identification document as provided in this section. The affidavit shall be on or consistent with forms prepared by the State or local government agency administering the public assistance benefits program, and shall include the applicant's social security number and an explanation of the penalties under State law for fraudulently obtaining public assistance benefits. An applicant that knowingly provides false information on the affidavit or application for public assistance benefits is subject to criminal penalties applicable in this State for fraudulently obtaining public assistance program benefits. An applicant who has provided the sworn affidavit required by this subdivision is eligible to receive temporary public assistance program benefits as follows:

- a. For 90 days or until such time that it is determined that the applicant is not lawfully present in the United States, whichever is earlier;
- b. Indefinitely if the applicant provides a copy of a completed application for a North Carolina birth certificate that is pending in accordance with Article 4 of Chapter 130A of the General Statutes, or a substantially similar law of another state. An extension granted under this sub-subdivision shall terminate upon the applicant's receipt of a birth certificate or a determination that a birth certificate does not exist because the applicant is not a United States citizen;

1 c. An applicant who has provided the sworn affidavit in
2 accordance with this section is eligible to receive a temporary
3 identification document for either 30 days or until such time
4 that it is determined that the applicant is not lawfully present in
5 the United States, whichever is earlier; or

6 d. A State or local government agency shall report in writing to
7 the Attorney General of this State, and to a federal immigration
8 law enforcement office designated by the Attorney General of
9 this State, an applicant or beneficiary described in this section
10 that fails to verify the applicant's or beneficiary's own legal
11 presence in the United States. An employee of a State or local
12 government agency who knowingly and willfully fails to report
13 violations of federal immigration law is guilty of a Class 2
14 misdemeanor. A supervisor of an employee who knows of the
15 employee's failure to report and fails to direct the employee to
16 make the report is guilty of a Class 2 misdemeanor.

17 (b) This section does not apply to State or local public assistance program
18 benefits that are excepted from verification of eligibility under federal law.

19 (c) The definition of "State or local public benefit" under 8 U.S.C. § 1621(c)
20 shall apply to programs of public assistance under G.S. 108A-25. The definition shall
21 exclude any State and local public benefit excepted from verification of eligibility under
22 8 U.S.C.A. § 1621(b), including services necessary for the treatment of an emergency
23 medical condition.

24 (d) This section shall be enforced without regard to race, religion, gender,
25 ethnicity, or national origin.

26 (e) Any person who believes that a State or local government agency has failed
27 to comply with this section in the administration of public assistance program benefits
28 may file a complaint in writing with the State or local government agency charged with
29 administering the program.

30 (1) The State or local government agency shall provide a written response
31 within 60 days of receipt of the complaint, or within 30 days if the
32 complaint alleges erroneous determination that the person is not
33 lawfully present in the United States.

34 (2) A person with reasonable cause to believe that a State or local
35 government agency has failed to cease an act or practice in violation of
36 this section may, within 75 days after receipt of the agency's written
37 response to the person's complaint made pursuant to subdivision (1) of
38 this subsection, institute a proceeding for injunction or mandamus to
39 remedy the violation giving rise to the complaint."

40 **SECTION 3.** G.S. 108A-70 reads as rewritten:

41 **"§ 108A-70. Recoupment of amounts spent on medical care.**

42 (a) The Department may garnish the wages, salary, or other employment income
43 of, and the Secretary of Revenue shall withhold amounts from State tax refunds to, any
44 person who:

1 (1) Is required by court or administrative order to provide health benefit
2 plan coverage for the cost of health care services to a child eligible for
3 medical assistance under Medicaid; and
4 (2) Has received payment from a third party for the costs of such services;
5 but
6 (3) Has not used such payments to reimburse, as appropriate, either the
7 other parent or guardian of the child or the provider of the services;
8 to the extent necessary to reimburse the Department for expenditures for such costs
9 under this Part; provided, however, claims for current and past due child support shall
10 take priority over any such claims for the costs of such services.

11 (a1) Any person who knowingly and willfully employs a non-United States citizen
12 who otherwise is not a resident of the State, shall be responsible for the cost of
13 providing medically necessary services for those persons or members of the household
14 who are medically indigent, if the medical condition leading to medically necessary
15 services arises during the course of employment. A cause of action for reimbursement
16 plus costs and attorneys' fees shall accrue against an employer of the medically indigent
17 person to the State for services provided under the State Medical Assistance Plan, and to
18 any county or health care provider that provides health care services to the indigent
19 person. A person who, in good faith, relies on documentation establishing employment
20 authorization in the United States, where the document appears to be authentic on its
21 face, is not subject to this subsection.

22 (b) To the extent that payment for covered services has been made under
23 G.S. 108A-55 for health care items or services furnished to an individual, in any case
24 where a third party has a legal liability to make payments, the Department of Health and
25 Human Services is considered to have acquired the rights of the individual to payment
26 by any other party for those health care items or services."

27 **SECTION 4.** G.S. 108A-24(6) reads as rewritten:

28 "**§ 108A-24. Definitions.**

29 As used in Chapter 108A:

30 ...
31 (6) "Resident," unless otherwise defined by federal regulation, is a person
32 who is living in North Carolina at the time of application with the
33 intent to remain permanently or for an indefinite period; or who is a
34 person who enters North Carolina seeking employment or with a job
35 commitment. For purposes of G.S. 108A-25.4 and G.S. 108A-70, a
36 person is not a resident of this State if the person is determined
37 ineligible for public assistance benefits under G.S. 108A-25.4."

38 **SECTION 5.** All State agencies administering programs of public assistance
39 in this State shall cooperate with local governments and the United States Department
40 of Homeland Security to develop a system to facilitate verification of an individual's
41 lawful presence in the United States in furtherance of this act. The system developed
42 may include all or part of the Systematic Alien Verification Entitlements Program
43 operated by the United States Department of Homeland Security.

1 **SECTION 6.** Section 1 of this act is effective with respect to voters
2 registering on or after January 1, 2005. The remainder of this act becomes effective
3 January 1, 2006, and applies to applications for public assistance programs submitted on
4 and after that date.