

By the Committee on Children & Family Empowerment and  
Representatives Rodriguez-Chomat, Barreiro, Garcia, Morse,  
Betancourt, Lacasa, Valdes and Villalobos

1                                   A bill to be entitled  
2           An act relating to welfare reform; creating the  
3           "Humanitarian Aid to Legal Residents Act of  
4           1997"; prohibiting discrimination in the  
5           provision of public assistance to residents of  
6           the state; providing eligibility of legal  
7           residents for public assistance benefits;  
8           specifying actions leading to loss of benefits  
9           and eligibility; providing definitions;  
10          providing residency requirements; providing a  
11          limitation; providing an effective date.  
12  
13          WHEREAS, on August 22, 1996, Title IV, the "Personal  
14          Responsibility and Work Opportunity Reconciliation Act of  
15          1996" (Pub. L. No. 104-193, the Welfare Act), was signed into  
16          law by the President, dramatically altering the current  
17          welfare system and restricting the access of certain legal  
18          immigrants to a wide range of public benefits, including  
19          Medicaid, supplemental security income (SSI), and food stamps,  
20          and  
21          WHEREAS, an estimated 46,000 recipients of supplemental  
22          security income, 102,000 recipients of food stamps, 3,500  
23          recipients of Medicaid, and 650 recipients of temporary  
24          assistance to needy families, in Florida, will begin to lose  
25          these benefits as early as August 22, 1997, if they are unable  
26          to become naturalized citizens, and  
27          WHEREAS, an estimated 12,000 qualified aliens a year  
28          admitted to the United States beginning August 22, 1996, and  
29          residing in Florida will be barred from federal means-tested  
30          programs for 5 years, due to changes in eligibility related to  
31          citizenship under the federal act, and

1           WHEREAS, many of these recipients are over 65 years of  
2 age with no other means of support, and will not be able to  
3 become United States citizens due to mental or physical  
4 incapacity, and

5           WHEREAS, the Congressional Budget Office estimated the  
6 Federal Government would reduce funding by \$2.9 billion in  
7 fiscal year 1997 and \$54.2 billion between fiscal year 1997  
8 and fiscal year 2002 as a result of denying these benefits to  
9 certain legal immigrants, NOW, THEREFORE,

10  
11 Be It Enacted by the Legislature of the State of Florida:

12  
13           Section 1. Humanitarian Aid to Legal Residents Act of  
14 1997.--

15           (1) SHORT TITLE.--This act may be cited as the  
16 "Humanitarian Aid to Legal Residents Act of 1997."

17           (2) NONDISCRIMINATION; ELIGIBILITY FOR PUBLIC  
18 ASSISTANCE.--Notwithstanding any provision of the federal  
19 Personal Responsibility and Work Opportunity Reconciliation  
20 Act of 1996 (Pub. L. No. 104-193), the State of Florida shall  
21 not discriminate between Florida residents who are United  
22 States citizens and Florida residents who are legal residents  
23 of the United States as of February 1, 1997, in the provision  
24 of public assistance as described in this section to qualified  
25 persons residing in the state.

26           (a) A legal resident of the United States residing in  
27 Florida who is eligible to apply and has applied for United  
28 States citizenship by June 30, 1997, and who has lost or will  
29 lose cash assistance, Medicaid, supplemental security income,  
30 or food stamp benefits as a result of changes in eligibility  
31 related to citizenship or residency status in said federal act

1 is eligible to receive equivalent benefits under state law  
2 while the resident's application for citizenship is pending.  
3 The amount of benefits provided to a person under this  
4 subsection may not exceed the amount of the benefits lost by  
5 that person as a result of the changes in eligibility related  
6 to citizenship or residency status in the federal act.

7 (b) A legal resident of the United States residing in  
8 Florida on February 1, 1997, who is not eligible to apply for  
9 citizenship until a date subsequent to February 1, 1997, shall  
10 be eligible for the benefits provided under this section,  
11 provided the resident applies for citizenship not later than  
12 90 days after the date he or she becomes eligible to make such  
13 an application.

14 (c) A legal resident of the United States residing in  
15 Florida on June 30, 1997, who is 65 years of age or older or  
16 is mentally or physically incapacitated on the effective date  
17 of this act, and who has lost or will lose benefits but is  
18 unable to obtain citizenship due to mental or physical  
19 disability, is eligible to receive benefits under state law up  
20 to an amount equivalent to the cash assistance, Medicaid,  
21 supplemental security income, and other public assistance  
22 benefits provided to a United States citizen residing in the  
23 state who is 65 years of age or older or is mentally or  
24 physically incapacitated.

25 (d) A legal resident who receives benefits under this  
26 section and who travels or transmits money or goods other than  
27 medicine to Cuba, either directly, indirectly, or through a  
28 third country, shall automatically lose any such benefits,  
29 monetary or of any other nature, and shall be ineligible for  
30 further benefits under this section.

31

1           (3) DEFINITIONS.--For the purposes of eligibility for  
2 benefits under this section, the term:

3           (a) "Mental incapacitation" means either developmental  
4 disability or mental impairment.

5           1. "Developmental disability" means an impairment, the  
6 onset of which precedes an individual's 18th birthday, that  
7 causes an individual to show delayed development of a specific  
8 cognitive area of maturation, such as reading, language, or  
9 speech, resulting in intellectual functioning so impaired as  
10 to render an individual unable to demonstrate an understanding  
11 of the English language or unable to fulfill the requirements  
12 for English proficiency, even with reasonable modifications.

13           2. "Mental impairment" means a primary impairment of  
14 brain function, generally associated with an organic basis  
15 upon which the diagnosis is based, resulting in an impairment  
16 of intellectual functions such as memory, orientation, or  
17 judgment that causes an individual to be unable to participate  
18 in the procedures required for becoming a naturalized citizen.

19           (b) "Physical disability" means a physical impairment  
20 that substantially limits an individual's major life activities  
21 in a way that causes that individual to be unable to  
22 participate in the procedures required for becoming a  
23 naturalized citizen.

24           (4) RESIDENCY.--To qualify a person as a state  
25 resident for purposes of this section, the Department of  
26 Children and Family Services shall make a determination based  
27 on the following criteria:

28           (a) A person or, if that person is a dependent child,  
29 his or her parent or parents must have established legal  
30 residence in this state and must have maintained legal  
31 residence in this state as provided by this subsection.

1           (b) Every applicant for benefits under this section  
2 must make a statement as to his or her length of residence in  
3 the state and must establish that his or her presence or, if  
4 the applicant is a dependent child, the presence of his or her  
5 parent or parents in the state currently is, and during the  
6 requisite 6-month qualifying period was, for the purpose of  
7 maintaining a bona fide domicile, rather than for the purpose  
8 of maintaining a temporary residence to receive benefits under  
9 this section.

10           1. However, a dependent child living with an adult  
11 relative other than the child's parent may qualify as a  
12 resident for purposes of this section if the adult relative is  
13 a legal resident who has maintained legal residence in this  
14 state for at least 6 months immediately prior to the child's  
15 qualification, provided the child has resided continuously  
16 with such relative for the 5 years immediately prior to the  
17 child's qualification, during which time the adult relative  
18 has exercised day-to-day care, supervision, and control of the  
19 child.

20           2. The legal residence of a dependent child whose  
21 parents are divorced, separated, or otherwise living apart  
22 shall be deemed to be this state if either parent is a legal  
23 resident of this state, regardless of which parent is entitled  
24 to claim, and does in fact claim, the minor as a dependent  
25 pursuant to federal individual income tax provisions.

26           (c) An individual shall not be classified as a  
27 resident and thus shall not be eligible to receive benefits  
28 under this section until he or she has provided such evidence  
29 related to legal residence and its duration as may be required  
30 by officials of the program from which he or she seeks  
31 benefits.

1           (d) With respect to a dependent child, the legal  
2 residence of such individual's parent or parents is prima  
3 facie evidence of the individual's legal residence, which  
4 evidence may be reinforced or rebutted, relative to the age  
5 and general circumstances of the individual, by the other  
6 evidence of legal residence required of or presented by the  
7 individual. However, the legal residence of an individual  
8 whose parent or parents are domiciled outside this state is  
9 not prima facie evidence of the individual's legal residence  
10 if that individual has lived in this state for 5 consecutive  
11 years prior to applying for benefits under this section.

12           (e) In making a domiciliary determination related to  
13 the classification of a person as a resident or nonresident  
14 for purposes of this section, the domicile of a married  
15 person, irrespective of sex, shall be determined, as in the  
16 case of an unmarried person, by reference to all relevant  
17 evidence of domiciliary intent. For the purposes of this  
18 subsection:

19           1. A person shall not be precluded from establishing  
20 or maintaining legal residence in this state and subsequently  
21 qualifying or continuing to qualify for benefits under this  
22 section solely by reason of marriage to a person domiciled  
23 outside this state, even when that person's spouse continues  
24 to be domiciled outside of this state, provided such person  
25 maintains his or her legal residence in this state.

26           2. A person shall not be deemed to have established or  
27 maintained a legal residence in this state and subsequently to  
28 have qualified or continued to qualify as a resident for  
29 purposes of eligibility for benefits under this section solely  
30 by reason of marriage to a person domiciled in this state.

31

1           3. In determining the domicile of a married person,  
2 irrespective of sex, the fact of the marriage and the place of  
3 domicile of such person's spouse shall be deemed relevant  
4 evidence to be considered in ascertaining domiciliary intent.

5           (f) Any nonresident person, irrespective of sex, who  
6 marries a legal resident of this state or marries a person who  
7 later becomes a legal resident may, upon becoming a legal  
8 resident of this state, accede to the benefit of the spouse's  
9 immediately precedent duration as a legal resident for  
10 purposes of satisfying the 6-month durational requirement of  
11 this section.

12           (g) A person shall not lose his or her resident status  
13 for purposes of qualifying for benefits under this section  
14 solely by reason of serving, or, if such person is a dependent  
15 child, by reason of his or her parent's or parents' serving,  
16 outside of this state in the Armed Forces of the United  
17 States.

18           (5) LIMITATION.--Nothing contained in this section  
19 shall be construed to provide more benefits or additional  
20 benefits to a legal immigrant, as provided in this section,  
21 than such person would otherwise receive as a citizen of the  
22 United States.

23           Section 2. This act shall take effect upon becoming a  
24 law.

25  
26  
27  
28  
29  
30  
31