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1 A bill to be entitled
 2 An act relating to eligibility for public benefits;
 3 creating s. 409.954, F.S.; requiring verification of the
 4 lawful presence in the United States of persons over a
 5 specified age applying for certain public benefits;
 6 providing exceptions; requiring execution of an affidavit
 7 of eligibility; providing for verification of the
 8 affidavit under a specified federal program; providing for
 9 penalties for false affidavits; providing for variation of
 10 requirements; providing for adjudication of unique
 11 individual circumstances due to unusual hardship;
 12 prohibiting provision of public benefits in violation of
 13 specified provisions; providing for reports; providing an
 14 effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Section 409.954, Florida Statutes, is created
 19 to read:

20 409.954 Verification of immigration status for public
 21 benefits.—

22 (1) Except as provided in subsection (3) or where exempted
 23 by federal law, each agency of the executive, legislative, or
 24 judicial branch of state government shall verify the lawful
 25 presence in the United States of any natural person 18 years of
 26 age or older who has applied for state public benefits as
 27 defined in 8 U.S.C. s. 1621 or for federal public benefits as

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28 defined in 8 U.S.C. s. 1611 that are administered by that
29 agency.

30 (2) This section shall be enforced without regard to race,
31 religion, gender, ethnicity, or national origin.

32 (3) Verification of lawful presence in the United States
33 under this section is not required for:

34 (a) Any purpose for which lawful presence in the United
35 States is not restricted by law, ordinance, or regulation;

36 (b) Assistance for health care items and services that are
37 necessary for the treatment of an emergency medical condition,
38 as defined in 42 U.S.C. s. 1396b(v)(3), of the alien involved
39 and are not related to an organ transplant procedure;

40 (c) Short-term, noncash, in-kind emergency disaster
41 relief;

42 (d) Public health assistance for immunizations with
43 respect to diseases and for testing and treatment of symptoms of
44 communicable diseases, regardless of whether such symptoms are
45 caused by a communicable disease; or

46 (e) Programs, services, or assistance such as soup
47 kitchens, crisis counseling and intervention, and short-term
48 shelter specified by the United States Attorney General, in the
49 sole and unreviewable discretion of the United States Attorney
50 General after consultation with appropriate federal agencies and
51 departments, which:

52 1. Deliver in-kind services at the community level,
53 including through public or private nonprofit agencies;

54 2. Do not condition the provision of assistance, the
55 amount of assistance provided, or the cost of assistance

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56 provided on the income or resources of the individual recipient;
57 and

58 3. Are necessary for the protection of life or safety.

59 (4) Verification of lawful presence in the United States
60 by an agency required to make such verification shall require
61 that the applicant execute an affidavit under penalty of perjury
62 that the applicant is:

63 (a) A United States citizen; or

64 (b) A qualified alien under the Immigration and
65 Nationality Act, 8 U.S.C. ss. 1101 et seq., and is lawfully
66 present in the United States.

67 (5) For any applicant who has executed the affidavit
68 described in paragraph (4)(b), eligibility for benefits shall be
69 made through the Systematic Alien Verification of Entitlement
70 program operated by the United States Department of Homeland
71 Security or a successor program designated by that department.
72 Until such eligibility verification is made, the affidavit may
73 be presumed to be proof of lawful presence for the purposes of
74 this section.

75 (6) Any person who knowingly and willfully makes a false,
76 fictitious, or fraudulent statement or representation in an
77 affidavit executed pursuant to subsection (4) and any person who
78 aids or abets a person in knowingly and willfully making such a
79 statement or representation in an affidavit shall be subject to
80 criminal penalties applicable in this state for fraudulently
81 obtaining public assistance program benefits and must disgorge
82 any benefit received and make restitution to the agency that
83 administered the benefit or entitlement. If the affidavit

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84 constitutes a false claim of United States citizenship under 18
85 U.S.C. s. 911, a complaint shall be filed by the agency
86 requiring the affidavit with the appropriate United States
87 Attorney.

88 (7) An agency may adopt variations to the requirements of
89 this section that demonstrably improve the efficiency of or
90 reduce delay in the verification process, or to provide for
91 adjudication of unique individual circumstances where the
92 verification procedures in this section would impose unusual
93 hardship on a legal resident of this state. However, no
94 variation adopted under this subsection may have the effect of
95 eliminating the requirement for verification as provided in
96 subsection (1).

97 (8) An agency may not provide any state or federal
98 benefit, as defined in 8 U.S.C. s. 1611 or s. 1621, in violation
99 of this section.

100 (9) Each agency of the executive, legislative, or judicial
101 branch of state government that administers a program of state
102 public benefits shall provide an annual report to the Secretary
103 of Children and Family Services with respect to its compliance
104 with this section. Any and all incidents of noncompliance shall
105 be reported to the United States Department of Homeland Security
106 by the Secretary of Children and Family Services.

107 Section 2. This act shall take effect October 1, 2010.