

SB21-199: REMOVE BARRIERS TO CERTAIN PUBLIC OPPORTUNITIES
Concerning measures to remove barriers to certain public opportunities.

Details

Bill Sponsors:	Senate – <i>Jaquez Lewis (D) and Winter (D)</i> , Gonzales (D), Bridges (D), Kolker (D), Pettersen (D) House – <i>Esgar (D) and Gonzales-Gutierrez (D)</i> , Amabile (D), Bacon (D), Caraveo (D), Herod (D), Hooton (D), Jodeh (D), Michaelson Jenet (D), Ricks (D), Titone (D), Woodrow (D)
Committee:	Senate State, Veterans, and Military Affairs
Bill History:	3/26/2021- Introduced in Senate
Next Action:	4/13/2021- Hearing in Senate State, Veterans, and Military Affairs

Bill Summary

Currently, both federal and state law require that individuals verify lawful presence to receive certain government benefits. This bill removes the requirement to verify lawful presence for state or local public benefits. Current law prohibits a state agency or political subdivision from entering into or renewing a public contract with a contractor who knowingly employs or contracts persons who are undocumented. The bill repeals that requirement and associated statutory provisions. Current law requires that state agencies and local governments use secure and verifiable identity documents when providing services or issuing official documents. The bill repeals that requirement.

Issue Summary

Federal Law: State & Local Public Benefits

Federal law has a variety of restrictions on benefits for undocumented immigrants. This section will focus on restrictions for state and local public benefits. Federal law states that undocumented immigrants are not eligible for any state or local public benefit¹, except in certain circumstances.² The exceptions include:

- Health care assistance necessary to treat an emergency medical condition, which means a medical condition (including emergency labor and delivery) manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in placing the patient's health in serious jeopardy; serious impairment to bodily functions; or serious dysfunction of any bodily organ or part.³ It cannot be related to an organ transplant procedure.
- Short-term non-cash, in-kind emergency disaster relief
- Immunization programs
- In-kind community services that protect life or safety (i.e. soup kitchens, crisis counseling, or short-term shelter) and are not conditional on income or resources

¹ 8 U.S. Code § 1621

² (A) any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and (B) any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.

³ 42 U.S. Code § 1396b(v)(3)

Federal law stipulates that lawful presence is not required for state or local public benefits created pursuant to state legislation that affirmatively provides that lawful presence is not required for eligibility.

State Law: Restriction of Public Benefits

Legislation originally passed in 2006, HB06S-1023, required state and local government agencies, with some exceptions, to verify the lawful presence of applicants for public benefits. Codified in Article 76.5 of Title 24 within the Colorado Revised Statutes, the exceptions currently include:

- Any purpose for which lawful presence is not required by law, ordinance, or rule
- Health benefits for treating an emergency medical condition,⁴ cannot be related to an organ transplant procedure
- Short-term, noncash, in-kind emergency disaster relief
- Immunization programs
- In-kind community services that protect life or safety (i.e. soup kitchens, crisis counseling, or short-term shelter) and are not conditional on income or resources
- Pregnant women
- Under the age of 18, including over 18 and under 19 years old and remain eligible for medical assistance after turning 18
- Renewing an educator license
- Recipients of certain higher education-related services and benefits

Immigrants in Colorado

According to the New American Economy, a bipartisan research and advocacy organization, there are around 145,000 undocumented immigrants living in Colorado as of 2019.⁵ The vast majority of these (89.9%) are of working age. Further, there are an estimated 9,806 undocumented entrepreneurs in the state. In 2019, undocumented immigrants in Colorado paid \$140.9 million in state and local taxes as well as \$231.7 million in federal taxes.⁶ Those individuals and families combined for approximately \$2.9 billion in spending power. Please note that these figures may differ from the ones included in the legislative declaration of the bill, as some of their numbers are from different sources or have been rounded.

Access to Health Care

Among the total nonelderly population in the United States, 45% of undocumented immigrants were uninsured, compared to about 23% of lawfully present immigrants and 8% of citizens, as of 2017.⁷ This high rate of uninsurance reflects the limited access to employer sponsored insurance as well as eligibility restrictions that prevent most from accessing Medicaid, Medicare, and the Affordable Care Act (ACA) marketplaces. Most undocumented adult individuals are only eligible for Emergency Medicaid.⁸ Emergency Medicaid only covers services for a 'life or limb threatening emergency' and labor and delivery for pregnant women. For those pregnant women, it does not cover any prenatal or postnatal care.

This Legislation

Legislative Declaration

The General Assembly finds and declares the following statements. People who immigrated to the U.S. and live in Colorado are essential members of our communities. Every day, the state benefits from the contributions of undocumented immigrants to our society. Immigrants hold jobs that are critical to our economy and communities and in some industries comprise more than a third of the workforce. Immigrants

⁴ Same definition as the federal law

⁵ New American Economy (2021). *Colorado*. Retrieved from <https://www.newamericaneconomy.org/locations/colorado/>

⁶ New American Economy (2021). *Colorado*. Retrieved from <https://www.newamericaneconomy.org/locations/colorado/>

⁷ Kaiser Family Foundation (July, 15, 2019). Health Coverage and Care of Undocumented Immigrants. Retrieved from <https://www.kff.org/racial-equity-and-health-policy/issue-brief/health-coverage-and-care-of-undocumented-immigrants/>

⁸ 10 CCR 2505-10 8.100 section 8.1.00.3.G.1v

make the tourism industry run; build buildings; lay the roads; provide in-home care to seniors, children, and people with disabilities; bring food to our tables and doorsteps. Immigrants are over 9% of Colorado's population and contribute to the economy through the labor force, as consumers, and taxpayers. In 2019, all immigrants, regardless of documentation status, in Colorado paid almost \$6 billion in local, state, and federal taxes. In Colorado, undocumented immigrants pay nearly \$275 million in federal taxes and more than \$150 million in state and local taxes annually. These hardworking Coloradans are diverse and are often a part of a mixed-status family. In Colorado, the estimated population is 162,000, representing approximately 8% of children under 16 years of age. An estimated 276,589 Coloradans live with a family member who is undocumented, including 130,958 children. Children from immigrant families are disproportionately more likely to be from a low-income household.

The 2006 special legislative session facilitated the passage of anti-immigrant legislation that left behind immigrant families, citizen families experiencing homelessness, and persons fleeing domestic violence without necessary public benefits. These policies required state and local agencies to verify the lawful presence of applicants for public benefits, including professional, occupational, and commercial licenses. Undocumented immigrants who do not have the required documents to establish lawful presence prevents them from fully participating in Colorado's economy and accessing state and local public benefits, including loans, grants, contracts, food and housing assistance, energy assistance, and other benefits. Undocumented immigrants are ineligible for most federal benefits and were excluded from the stimulus money provided in the Coronavirus Aid, Relief, and Economic Security (CARES) Act. Local communities were restricted from providing their residents with crucial relief during the COVID-19 pandemic because of these anti-immigrant laws.

In 2018, various industries including child care, agriculture, health care, K-12 education, and transportation averaged between 1 to 2.5 job openings per every unemployed worker, demonstrating a high need for a larger labor pool. Protecting the wellbeing of these members of our communities and ensuring their access to important public benefits and opportunities, particularly during a global health crisis, makes our communities healthier, stronger, and more prosperous.

Therefore, the General Assembly declares it is the public policy of the state of Colorado that we ensure that our state-funded programs are not denied to people based on their immigration status.

Definitions

State or Local Public Benefits.⁹ Any grant, contract, loan, professional license, or commercial license provided by an agency of a State or local government or by appropriated funds of a State or local government; and any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.

Lawful Presence Consideration

The bill repeals current law requiring the verification of lawful presence and replaces it with the following statement. Notwithstanding any law to the contrary and pursuant to federal law¹⁰, lawful presence is not a requirement of eligibility for state or local public benefits.

State & Local Public Benefit Funding

⁹ 8 U.S. Code § 1621

¹⁰ 8 U.S. Code § 1621 (d)

The General Assembly shall not allocate additional funding to any state or local public benefit program for purposes of not requiring lawful presence for fiscal year 2021-22. Starting in fiscal year 2022-23, any additional funding for a public benefit program is subject to the standard budgeting process. This section is repealed July 1, 2024.

Application for Licenses

The bill repeals the requirement for lawful presence to obtain a license issued by any division, board, or agency of the Department of Regulatory Agencies (DORA). The process now requires the applicant to produce one of the following documents:

- A valid Colorado driver's license or identification card or
- Any valid document, or combination of documents, that are sufficient to establish identity for the purpose of obtaining a driver's license or identification card

Business Licenses

The bill repeals the requirements for counties and municipalities to verify lawful presence to obtain a business or commercial license.

Identification Documents

The bill amends the current phrase that is included on Colorado driver's license or identification card that is issued to undocumented immigrants to read "Not valid for federal identification or voting purposes," it strikes the phrase "public benefit."

Public Contract Language

The bill repeals the article of statute that prohibits a state agency or political subdivision from entering into or renewing a public contract with a contractor who knowingly employs or contracts with individuals who are undocumented.

Secure and Verifiable Identity Documents

The bill repeals the article of statute that requires a public entity that provides services to not accept, rely upon, or utilize an identification document to provide services unless it is a secure and verifiable document.

Notary Applicants

The bill repeals the requirement that the Secretary of State verify the lawful presence of notary applicants through the process currently set in statute (which would be repealed by this bill), instead the Secretary will verify lawful presence by accepting one of the following documents:

- U.S. military card or a military dependent identification card
- U.S. Coast Guard Merchant Mariner card
- Native American tribal document
- Colorado driver's license or identification card, unless it is held by a person who is not a citizen of the state and who does not have permanent residency status

An affidavit needs to be executed that states that the applicant is a U.S. citizen or legal permanent resident or otherwise lawfully present in the U.S. pursuant to federal law.

Effective Date

The bill is effective as of July 1, 2021.

Reasons to Support

The 2006 laws placed strong restrictions at the state level on the availability of public opportunities and benefits for undocumented immigrants. They have led to a patchwork of state and local government policies that has created confusion and disparities around key resources, services, and information that threaten undocumented individuals' and families' ability to lead stable lives. The barriers to basic opportunities and services has been especially destructive in our current COVID and economic environment when individuals cannot access the extra supports that other individuals, families, and businesses are allowed to access. For children, barriers to public services, including quality child care, leads to poor health outcomes, increased learning gaps, and lower wages over a lifetime. Adults without documentation lack the wide variety of safety net services that are there for others in their community, creating a system of disadvantage. This bill would greatly diminish the restrictions, allowing all residents of Colorado an improved opportunity for stability, support, opportunity, and better health outcomes. The bill would allow individuals without documentation to access local and state public opportunities and benefits, although there will still be restrictions on federal benefits, giving Colorado the chance for lower poverty rates and healthier communities overall. It is likely that the bill would allow the Health District of Northern Larimer County to serve more individuals who have a clear need for health services that we provide, such as comprehensive dental care and mental health services.

Some would assert that although individuals may have come to the U.S. without legal status, they have become an integral part of the economic structure of the state and the fabric of our communities, and should be afforded the same opportunities as other Colorado residents.

In addition, the bill is likely to save time and money for state and local public benefit programs as there will be a decrease in the administrative burden of verifying lawful presence.

Supporters

- American Friends Service Committee, Colorado
- Bell Policy Center
- Boulder County
- Center for Health Progress
- City of Boulder
- City and County of Denver
- Coalition for Immigrant Health
- Colorado Center on Law & Policy
- Colorado Children's Campaign
- Colorado Consumer Health Initiative
- Colorado Cross-Disability Coalition
- Colorado Statewide Parents Coalition
- Denver Human Services
- Early Childhood Council of Boulder County
- Early Childhood Council of Larimer County
- Good Business Colorado
- Healthy Child Care Colorado
- Hunger Free Colorado
- Illuminate Colorado
- Imagine!
- Immigrant & Refugee Center of Northern Colorado
- Immigrant Legal Center or Boulder County
- League of Women Voters of Colorado
- Mental Health Colorado
- Nourish Colorado
- Raise Colorado
- Small Business Majority
- Together Colorado
- Tri-County Health Network
- Voces Unidas

Reasons to Oppose

This bill could increase utilization of state and local programs, requiring increased staffing and resources, possibly creating or expanding waiting lists, and potentially necessitating future increased funding by both state and local governments.

Some may assert that individuals without documentation should not be allowed to access publicly-funded services.

Others may assert that this is an issue that is better addressed at the federal level.

Opponents

- Square State Strategy Group

About this Analysis

This analysis was prepared by Health District of Northern Larimer County staff to assist the Health District Board of Directors in determining whether to take an official stand on various health-related issues. The Health District is a special district of the northern two-thirds of Larimer County, Colorado, supported by local property tax dollars and governed by a publicly elected five-member board. The Health District provides medical, mental health, dental, preventive and health planning services to the communities it serves. This analysis is accurate to staff knowledge as of date printed. For more information about this analysis or the Health District, please contact Alyson Williams, Policy Coordinator, at (970) 224-5209, or e-mail at awilliams@healthdistrict.org.