

104TH CONGRESS
1ST SESSION

H. R. 1377

To amend the Immigration and Nationality Act to authorize States to deny public education benefits to aliens not lawfully present in the United States.

IN THE HOUSE OF REPRESENTATIVES

APRIL 3, 1995

Mr. GALLEGLY (for himself, Mr. MCCOLLUM, Mr. SENSENBRENNER, Mr. ARCHER, Mr. WELDON of Pennsylvania, Mr. GOODLATTE, Mr. KIM, Mrs. SEASTRAND, Mr. SAXTON, Mr. SHAYS, Mr. MCKEON, Mr. ROHRABACHER, Mr. EWING, Mr. HANCOCK, Mr. CONDIT, Mr. BAKER of California, Mr. BILBRAY, Mr. CALVERT, Mr. RIGGS, Mr. BONO, Mr. RADANOVICH, Mr. PACKARD, Mr. BRYANT of Tennessee, Mr. HERGER, Mr. HEFLEY, Mr. STUMP, Mr. ROYCE, Mr. DOOLITTLE, Mr. HUNTER, Mr. SHADEGG, Mr. HOKE, and Mrs. ROUKEMA) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to authorize States to deny public education benefits to aliens not lawfully present in the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. AUTHORIZING STATES TO DENY PUBLIC EDU-**
2 **CATION BENEFITS TO ALIENS NOT LAW-**
3 **FULLY PRESENT IN THE UNITED STATES.**

4 (a) IN GENERAL.—The Immigration and Nationality
5 Act is amended by adding at the end the following new
6 title:

7 “TITLE V—DISQUALIFICATION OF ALIENS NOT
8 LAWFULLY PRESENT IN THE UNITED
9 STATES FROM CERTAIN PROGRAM

10 “CONGRESSIONAL POLICY REGARDING INELIGIBILITY OF
11 ALIENS NOT LAWFULLY PRESENT IN THE UNITED
12 STATES FOR PUBLIC EDUCATION BENEFITS

13 “SEC. 501. (a) Because Congress views that the right
14 to a free public education for aliens who are not lawfully
15 present in the United States promotes violations of the
16 immigration laws and because such a free public education
17 for such aliens creates a significant burden on States’
18 economies and depletes States’ limited educational re-
19 sources, Congress declares it to be the policy of the United
20 States that—

21 “(1) aliens who are not lawfully present in the
22 United States not be entitled to public education
23 benefits in the same manner as United States citi-
24 zens and lawful resident aliens; and

1 “(2) States should not be obligated to provide
2 public education benefits to aliens who are not law-
3 fully present in the United States.

4 “(b) Nothing in this section shall be construed as ex-
5 pressing any statement of Federal policy with regard to—

6 “(1) aliens who are lawfully present in the
7 United States, or

8 “(2) benefits other than public education bene-
9 fits provided under State law.

10 “AUTHORITY OF STATES

11 “SEC. 502. (a) In order to carry out the policies de-
12 scribed in section 501, each State may provide that an
13 alien who is not lawfully present in the United States is
14 not eligible for public education benefits in the State or,
15 at the option of the State, may be treated as a non-resi-
16 dent of the State for purposes of provision of such
17 benefits.

18 “(b) For purposes of subsection (a), an individual
19 shall be considered to be not lawfully present in the United
20 States unless the individual (or, in the case of an individ-
21 ual who is a child, another on the child’s behalf)—

22 “(1) declares in writing under penalty of per-
23 jury that the individual (or child) is a citizen or na-
24 tional of the United States and (if required by a
25 State) presents evidence of United States citizenship
26 or nationality; or

1 “(2)(A) declares in writing under penalty of
2 perjury that the individual (or child) is not a citizen
3 or national of the United States but is lawfully
4 present in the United States, and

5 “(B) presents either—

6 “(i) alien registration documentation or
7 other proof of immigration registration from
8 the Service, or

9 “(ii) such other documents as the State de-
10 termines constitutes reasonable evidence indi-
11 cating that the individual (or child) is lawfully
12 present in the United States.

13 If the documentation described in paragraph (2)(B)(i) is
14 presented, the State may (at its option) verify with the
15 Service the alien’s immigration status through a system
16 described in section 1137(d)(3) of the Social Security Act
17 (42 U.S.C. 1320b-7(d)(3)).

18 “(c) If a State denies public education benefits under
19 this section with respect to an alien, the State shall pro-
20 vide the alien with an opportunity for a fair hearing to
21 establish that the alien is lawfully present in the United
22 States, consistent with subsection (b) and Federal immi-
23 gration law.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 of such Act is amended by adding at the end the following
3 new items:

“TITLE V—DISQUALIFICATION OF ALIENS NOT LAWFULLY
PRESENT IN THE UNITED STATES FROM CERTAIN PROGRAM

“Sec. 501. Congressional policy regarding ineligibility of aliens not lawfully
present in the United States for public education benefits.

“Sec. 502. Authority of States.”.

4 (c) EFFECTIVE DATE.—The amendments made by
5 this section shall take effect as of the date of the enact-
6 ment of this Act.

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