

**§ 1623. Limitation on eligibility for preferential treatment of aliens not lawfully present on basis of residence for higher education benefits**

**(a) In general**

Notwithstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope) without regard to whether the citizen or national is such a resident.

**(b) Effective date**

This section shall apply to benefits provided on or after July 1, 1998.

(Pub. L. 104-208, div. C, title V, § 505, Sept. 30, 1996, 110 Stat. 3009-672.)

CODIFICATION

Section was enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and as part of the Omnibus Consolidated Appropriations Act, 1997, and not as part of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 which comprises this chapter.

**§ 1624. Authority of States and political subdivisions of States to limit assistance to aliens and to distinguish among classes of aliens in providing general cash public assistance**

**(a) In general**

Subject to subsection (b) and notwithstanding any other provision of law, a State or political subdivision of a State is authorized to prohibit or otherwise limit or restrict the eligibility of aliens or classes of aliens for programs of general cash public assistance furnished under the law of the State or a political subdivision of a State.

**(b) Limitation**

The authority provided for under subsection (a) may be exercised only to the extent that any prohibitions, limitations, or restrictions imposed by a State or political subdivision of a State are not more restrictive than the prohibitions, limitations, or restrictions imposed under comparable Federal programs. For purposes of this section, attribution to an alien of a sponsor's income and resources (as described in section 1631 of this title) for purposes of determining eligibility for, and the amount of, benefits shall be considered less restrictive than a prohibition of eligibility for such benefits.

(Pub. L. 104-208, div. C, title V, § 553, Sept. 30, 1996, 110 Stat. 3009-681.)

CODIFICATION

Section was enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and as part of the Omnibus Consolidated Appropriations Act, 1997, and not as part of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 which comprises this chapter.

**§ 1625. Authorization for verification of eligibility for State and local public benefits**

A State or political subdivision of a State is authorized to require an applicant for State and

local public benefits (as defined in section 1621(c) of this title) to provide proof of eligibility.

(Pub. L. 104-193, title IV, § 413, as added Pub. L. 105-33, title V, § 5307(a), Aug. 5, 1997, 111 Stat. 602.)

EFFECTIVE DATE

Section effective, except as otherwise provided, as if included in the enactment of title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5308 of Pub. L. 105-33, set out as an Effective Date of 1997 Amendment note under section 1612 of this title.

SUBCHAPTER III—ATTRIBUTION OF INCOME AND AFFIDAVITS OF SUPPORT

**§ 1631. Federal attribution of sponsor's income and resources to alien**

**(a) In general**

Notwithstanding any other provision of law, in determining the eligibility and the amount of benefits of an alien for any Federal means-tested public benefits program (as provided under section 1613 of this title), the income and resources of the alien shall be deemed to include the following:

(1) The income and resources of any person who executed an affidavit of support pursuant to section 213A of the Immigration and Nationality Act [8 U.S.C. 1183a] (as added by section 423 and as amended by section 551(a) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996) on behalf of such alien.

(2) The income and resources of the spouse (if any) of the person.

**(b) Duration of attribution period**

Subsection (a) shall apply with respect to an alien until such time as the alien—

(1) achieves United States citizenship through naturalization pursuant to chapter 2 of title III of the Immigration and Nationality Act [8 U.S.C. 1421 et seq.]; or

(2)(A) has worked 40 qualifying quarters of coverage as defined under title II of the Social Security Act [42 U.S.C. 401 et seq.] or can be credited with such qualifying quarters as provided under section 1645 of this title, and (B) in the case of any such qualifying quarter creditable for any period beginning after December 31, 1996, did not receive any Federal means-tested public benefit (as provided under section 1613 of this title) during any such period.

**(c) Review of income and resources of alien upon reapplication**

Whenever an alien is required to reapply for benefits under any Federal means-tested public benefits program, the applicable agency shall review the income and resources attributed to the alien under subsection (a).

**(d) Application**

(1) If on August 22, 1996, a Federal means-tested public benefits program attributes a sponsor's income and resources to an alien in determining the alien's eligibility and the amount of benefits for an alien, this section shall apply to any such determination beginning on the day after August 22, 1996.