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Summary: Public assistance eligibility

**HISTORY OF LEGISLATIVE ACTIONS**

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1/23/2018 Senate Referred to Committee on **General** ([Senate Journal‑page 14](file:///h:\sj\20180123.docx))

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**VERSIONS OF THIS BILL**

[1/23/2018](file:///p:\pprever\2017-18\919_20180123.docx)

**A** **BILL**

TO AMEND CHAPTER 5, TITLE 43 OF THE 1976 CODE, RELATING TO PUBLIC AID, ASSISTANCE AND RELIEF, GENERALLY, BY ADDING ARTICLE 13, TO REQUIRE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES TO ESTABLISH A COMPUTERIZED INCOME, ASSET, AND IDENTITY ELIGIBILITY VERIFICATION SERVICE TO VERIFY A PERSON’S IDENTITY AND ELIGIBILITY FOR PUBLIC ASSISTANCE, TO REQUIRE THE DEPARTMENT AND THE DEPARTMENT OF SOCIAL SERVICES TO USE THE SERVICE AS PART OF DETERMINING WHETHER TO AWARD AN APPLICANT OR RECIPIENT PUBLIC ASSISTANCE, TO ENABLE OTHER DEPARTMENTS PROVIDING PUBLIC ASSISTANCE TO USE THE SERVICE, TO REQUIRE CERTAIN REPORTING TO THE ATTORNEY GENERAL AND THE OFFICE OF INSPECTOR GENERAL FOR CASES OF SUSPECTED FRAUD, TO REQUIRE THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AND THE DEPARTMENT OF SOCIAL SERVICES TO SUBMIT REPORTS TO THE GOVERNOR AND OTHER PUBLIC OFFICIALS, AND FOR OTHER PURPOSES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 5, Title 43 of the 1976 Code is amended by adding:

“ARTICLE 13

Public Assistance Eligibility, Case Review, and Fraud Detection

Section 43‑5‑1510. For purposes of this article:

(1) ‘Identity information’ means an applicant’s or recipient’s full name, aliases, date of birth, address, Social Security number, and other related information.

(2) ‘Public assistance’ or ‘assistance’ means the Medicaid Insurance Program, the Family Independence or Temporary Assistance for Needy Families Program, the Supplemental Nutrition Assistance Program, and any other means‑tested public assistance program.

Section 43‑5‑1520. (A) The Department of Health and Human Services and the Department of Social Services shall utilize a computerized income, asset, and identity eligibility verification service, as provided for in Section 43‑5‑1530, to verify eligibility for public assistance; eliminate the duplication of public assistance; and deter waste, fraud, and abuse within programs administering public assistance.

(B) When practicable, the Department of Health and Human Services and the Department of Social Services should work with, grant access to, and share data provided for in Section 43‑5‑1530 with any other state agency that administers means‑tested public assistance to verify eligibility for assistance; eliminate the duplication of assistance; and deter waste, fraud, and abuse within each respective assistance program.

(C) Nothing in this article precludes any department or agency from continuing to conduct additional verification processes, not detailed in this article, that are currently in practice or otherwise required by federal law.

Section 43‑5‑1530. (A) No later than six months after the effective date of this act, the Department of Health and Human Services shall enter into a competitive bid contract, complying with the requirements of Chapter 35, Title 11, with a third‑party vendor of computerized income, asset, and identity eligibility verification services to enable any department to verify the income, asset, and identity information of applicants or recipients of public assistance in order to prevent fraud, misrepresentation, and inadequate documentation when determining an applicant’s or recipient’s eligibility for assistance before the distribution of benefits, periodically between eligibility redeterminations, and during eligibility redeterminations and reviews, as prescribed in this article.

(B)(1) The contract entered into pursuant to subsection (A) must require the third‑party vendor to establish annualized savings realized from implementation of the verification service, and savings must exceed the total yearly cost to the State for implementing the verification service.

(2) The contract payment structure for the third‑party vendor must be based on a per‑applicant rate and may include a performance bonus for achieving above a predetermined rate of success of identifying waste, fraud, and abuse.

(C) To avoid any conflict of interest, when the Department of Health and Human Services enters into a contract with a third‑party vendor pursuant to subsection (A), the primary vendor currently or prospectively may not be allowed to bid on or be awarded a state contract to facilitate enrollment services.

(D) The computerized income, asset, and identity eligibility verification service must be operational no later than one year after the effective date of this article.

Section 43‑5‑1540. (A) An application for public assistance pursuant to this article must be processed within a ten‑day period or the minimum time required by federal law. Before awarding assistance, and on a quarterly basis, the Department of Health and Human Services and the Department of Social Services shall verify the identity information of each respective applicant and recipient of assistance against the following:

(1) earned and unearned income information maintained by the Internal Revenue Service;

(2) employer weekly, monthly, and quarterly reports of income and unemployment insurance payment information maintained by the Department of Employment and Workforce and the Department of Revenue;

(3) earned income information maintained by the United States Social Security Administration;

(4) immigration status information maintained by the United States Citizenship and Immigration Services;

(5) death register information maintained by the United States Social Security Administration and the South Carolina Department of Health and Environmental Control;

(6) prisoner information maintained by the United States Social Security Administration;

(7) public housing and Section 8 Housing Assistance payment information maintained by the United States Department of Housing and Urban Development and the South Carolina State Housing Finance Authority or a county or municipal housing authority;

(8) national fleeing felon information maintained by the United States Federal Bureau of Investigation;

(9) wage reporting and similar information maintained by states contiguous to this State;

(10) beneficiary records and earnings information maintained by the United States Social Security Administration in its Beneficiary and Earnings Data Exchange (BENDEX) database;

(11) earnings and pension information maintained by the United States Social Security Administration in its Beneficiary Earnings Exchange Record System (BEERS) database;

(12) employment information maintained by the South Carolina Department of Employment and Workforce;

(13) employment information maintained by the United States Department of Health and Human Services in its National Directory of New Hires (NDNH) database;

(14) supplemental security income (SSI) information maintained by the United States Social Security Administration in its SSI State Data Exchange (SDX) database;

(15) veterans’ benefits information maintained in the federal Public Assistance Reporting Information System (PARIS) database by the United States Department of Health and Human Services, in coordination with any department administering public assistance to veterans, and the South Carolina Division of Veterans’ Affairs of the South Carolina Department of Administration’s Office of Executive Policies and Programs;

(16) childcare licensing and registration information maintained by the South Carolina Department of Social Services;

(17) utility payments information maintained by the South Carolina Office of Economic Opportunity of the South Carolina Department of Administration’s Office of Executive Policies and Programs;

(18) emergency utility payment information maintained by the State or by local utilities;

(19) a database of all persons who currently hold a license, permit, or certificate from any state agency the cost of which exceeds five hundred dollars;

(20) income and employment information maintained by the South Carolina Department of Social Services Division of Child Support Services and the United States Department of Health and Human Services’ Office of Child Support Enforcement;

(21) earnings and pension information maintained by the South Carolina Public Employee Benefit Authority;

(22) any existing real‑time database of persons currently receiving benefits in other states, such as the National Accuracy Clearinghouse;

(23) lottery winnings information maintained by the South Carolina Lottery Commission; and

(24) a database that is substantially similar to or a successor of a database established pursuant to this article.

(B) Before awarding assistance, and on a quarterly basis, the Department of Health and Human Services and the Department of Social Services shall match the identity information of each respective applicant and recipient of public assistance against, at a minimum:

(1) a nationwide public records data source of physical asset ownership, such as real property, automobiles, watercraft, aircraft, and luxury vehicles, or any other vehicle owned by the applicant and recipient of assistance;

(2) a nationwide public records data source of incarcerated individuals;

(3) a nationwide best‑address and driver’s license data source to verify that individuals are residents of the State;

(4) a comprehensive public records database that identifies potential identity fraud or identity theft that can closely associate name, Social Security number, date of birth, phone, and address information;

(5) national and local financial institutions, in order to locate undisclosed depository accounts or verify account balances of disclosed accounts;

(6) outstanding default or arrest warrant information maintained by the State Law Enforcement Division or another state, county, or municipal law enforcement organization or system; and

(7) a database that is substantially similar to or a successor of a database established pursuant to this article.

Section 43‑5‑1550. Before being awarded public assistance, the applicant must complete a computerized identity authentication process that confirms that the applicant possesses the identity presented in the application. The respective department shall review the respective applicant or recipient’s identity ownership by providing a knowledge‑based quiz consisting of financial or personal questions, which attempts to accommodate nonbanked or underbanked applicants who do not have an established credit history. The quiz for applications must be available to be submitted through all channels, including online, in person, and over the telephone.

Section 43‑5‑1560. (A) If a discrepancy results from an applicant’s or recipient’s identity information and one or more of the databases or information tools listed in Section 43‑5‑1540 or 43‑5‑1550, then the respective department shall review the respective applicant’s or recipient’s case as provided in this section.

(B)(1) If the information discovered does not result in the respective department finding a discrepancy or change in an applicant’s or recipient’s circumstances that may affect eligibility, then that department may not take further action.

(2) If the information discovered results in the respective department finding a discrepancy or change in an applicant’s or recipient’s circumstances that may affect eligibility, then that department promptly shall redetermine eligibility.

(3) If the information discovered results in the respective department finding a discrepancy or change in an applicant’s or recipient’s circumstances that may affect eligibility, then the applicant or recipient must be afforded an opportunity to explain the discrepancy; however, the respective department may not accept self‑declarations by an applicant or recipient as verification of categorical and financial eligibility during eligibility evaluations, reviews, and redeterminations.

(C) The respective department shall provide written notice to the applicant or recipient, which must describe in sufficient detail the circumstances of the discrepancy or change, the manner in which the applicant or recipient may respond, and the consequences of failing to take action. The applicant or recipient has ten business days, or the minimum required by state or federal law, to respond in an attempt to resolve the discrepancy or change. The applicant or recipient must provide a written response. After receiving the explanation, the respective department may request additional documentation if it determines that there is risk of fraud, misrepresentation, or inadequate documentation.

(D) If the applicant or recipient does not respond to the notice, then the respective department shall deny or discontinue public assistance for failure to cooperate, in which case the respective department shall provide notice of intent to deny or discontinue assistance. Eligibility for public assistance may not be established or reestablished until the discrepancy or change has been resolved.

(E) If an applicant or recipient responds to the notice and disagrees with the findings of the match between the applicant’s or recipient’s identity information and one or more databases or information tools listed in this article, then the respective department shall reinvestigate the matter. If the respective department finds that there has been an error, then it shall take immediate action to correct the error, and no further action may be taken. If, after an investigation, the respective department determines that there is no error, then it shall determine the effect on the applicant’s or recipient’s case and take appropriate action. Written notice of the respective department’s action must be given to the applicant or recipient.

(F) If the applicant or recipient agrees with the findings of the match between the applicant’s or recipient’s identity information and one or more databases or information tools listed in this article, then the respective department shall determine the effect on the applicant’s or recipient’s case and take appropriate action. Written notice of the respective department’s action must be given to the applicant or recipient. In no case may the respective department discontinue assistance upon finding a discrepancy or change in circumstances between an individual’s identity information and one or more databases or information tools listed in this article until the applicant or recipient has been given notice of the discrepancy and the opportunity to respond as required pursuant to this section.

Section 43‑5‑1570. (A) After the Department of Health and Human Services or Department of Social Services reviews changes or discrepancies that may affect public assistance program eligibility, the respective department shall refer suspected cases of fraud, including identity fraud, to the Attorney General and the Office of Inspector General for investigation and possible criminal prosecution, recovery of improper payments, and collection of civil penalties.

(B) In cases of fraud substantiated by the Department of Health and Human Services or the Department of Social Services, and upon conviction of the applicant or recipient, the State should review all legal options to remove the applicant or recipient from other public assistance programs, garnish wages or state income tax refunds, and take any other action authorized by law, until the State recovers an equal amount of benefits fraudulently received.

(C) After reviewing changes or discrepancies that may affect public assistance program eligibility, the Department of Health and Human Services and the Department of Social Services shall refer suspected cases of fraud, misrepresentation, or inadequate documentation to other appropriate departments for review of eligibility discrepancies in other public assistance programs, including cases in which an individual is determined to be no longer eligible for the original program.

Section 43‑5‑1580. (A) If the Department of Health and Human Services or the Department of Social Services unenrolls a recipient from its public assistance roll, then the respective department shall share eligibility information in a timely manner with any other department with which the respective department knows the recipient is enrolled to receive public assistance and provide the reason for unenrolling the recipient.

(B) A department receiving information pursuant to subsection (A) shall redetermine the eligibility of any enrollee whose eligibility or benefit levels could change as a result of new information.

(C) Departments awarding public assistance in this State shall collaborate to establish written policies regarding the sharing of information pursuant to subsection (A) and redetermining eligibility pursuant to subsection (B).

Section 43‑5‑1590. (A) The Department of Social Services shall post on its website, and make available on an annual basis to the House of Representatives Ways and Means Committee, the Senate Finance Committee, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President Pro Tempore of the Senate, and the Minority Leader of the Senate, a report of SNAP and TANF benefit spending, including:

(1) the dollar amount and number of transactions of SNAP benefits that are accessed or spent out‑of‑state, disaggregated by state;

(2) the dollar amount and number of transactions of TANF benefits that are accessed or spent out‑of‑state, disaggregated by state;

(3) the dollar amount, number of transactions, and times of transactions of SNAP benefits that are accessed or spent in‑state, disaggregated by retailer, institution, or location; and

(4) the dollar amount, number of transactions, and time of transactions of TANF benefits that are accessed or spent in‑state, disaggregated by retailer, institution, or location.

(B) The report required pursuant to subsection (A) must not include information that identifies the individual recipients.

Section 43‑5‑1600. (A) The Department of Health and Human Services and the Department of Social Services shall post on their websites, and make available on an annual basis to the House of Representatives Ways and Means Committee, the Senate Finance Committee, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President Pro Tempore of the Senate, and the Minority Leader of the Senate, a report of public assistance benefit recipient characteristics, including:

(1) the length of enrollment, disaggregated by program and eligibility group;

(2) the share of recipients concurrently enrolled in one or more additional means‑tested programs, disaggregated by program and eligibility group;

(3) the number of means‑tested programs in which a recipient is concurrently enrolled, disaggregated by program and eligibility group;

(4) the demographics and characteristics of recipients, disaggregated by program and eligibility group; and

(5) the dollar amount spent on advertising and marketing for TANF, SNAP, Medicaid, and other means‑tested programs, including state and federal funds, disaggregated by program.

(B) The report required pursuant to subsection (A) must not include information that identifies the individual recipients.

Section 43‑5‑1610. Beginning one year after the computerized income, asset, and identity eligibility verification service is operational, and quarterly thereafter, the Department of Health and Human Services shall provide a written report to the Governor, the General Assembly, and the Office of the Inspector General detailing the effectiveness and general findings of the eligibility verification system, including the number of cases reviewed; the number of case closures; the number of referrals for criminal prosecution; recovery of improper payment; collection of civil penalties; the outcomes of cases referred to the Attorney General or the Office of the Inspector General for Medicaid, TANF, and SNAP fraud investigation and civil and criminal enforcement processes pursuant to this article; and the savings that have resulted from the system.

Section 43‑5‑1620. The information maintained in the computerized income, asset, and identity eligibility verification service is not subject to disclosure pursuant to Chapter 4, Title 30, the Freedom of Information Act; however, a department or other agency may obtain and disclose information about an applicant or recipient as provided for in this article.

Section 43‑5‑1630. The Department of Health and Human Services, in cooperation with the Department of Social Services, shall promulgate regulations to implement the provisions of this article.”

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this article is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this article, the General Assembly hereby declaring that it would have passed this article and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect upon approval by the Governor.

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