

AN ACT concerning civil law.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Right to Counsel in Immigration Proceedings Act.

Section 5. Purpose; findings.

(a) The State is committed to fair and equal treatment of all individuals, and, in particular, of individuals at risk of removal and separation from their families through the federal immigration detention and deportation system.

(b) While an individual in removal proceedings has the right to legal representation, the representation is at the individual's own expense and may be beyond the financial capacity of low-income households.

(c) Nearly two-thirds of all individuals facing immigration removal proceedings throughout the United States lack legal representation. Among the individuals in immigration detention, only one in 6 individuals were represented by counsel. Among the individuals facing removal proceedings in this State, less than one in 3 individuals, generally, and less than one in 8 individuals in detention were represented by counsel.

(d) Legal representation is essential to effective

identification and presentation of avenues for release from detention and relief from removal. Individuals in immigration detention are 4 times more likely to win release if represented by legal counsel than individuals without representation by legal counsel. In removal proceedings, detained individuals are 11 times more likely to succeed in claims for relief if represented by legal counsel than individuals without representation by legal counsel.

(e) Legal representation in removal proceedings has improved the efficiency of the proceedings and the administration of justice as individuals are better able to present their defenses and claims for relief.

(f) It is the public policy of this State that all covered individuals should have the right to ongoing legal representation in covered proceedings. This right to counsel should include provisions of funds sufficient to ensure that legal service providers are funded to:

(1) engage support staff, interpretation staff, and investigative staff;

(2) contract as reasonably necessary with independent experts, including country conditions experts and forensic medical experts; and

(3) contract as reasonably necessary with social service providers providing supportive and rehabilitative services to covered individuals during the course of their removal proceedings.

(g) This State should establish a program and a dedicated fund to provide the legal services described in subsection (f).

Section 10. Definitions. As used in this Act:

"Covered individual" means any individual subject to removal proceedings under 8 U.S.C. 1225, 1228, and 1229a or a final order of removal under 8 CFR 1241.1, including any related covered proceeding, regardless of age, who is: (i) a domiciliary of this State; or (ii) an individual who is not a domiciliary of this State if removal proceedings are conducted against the individual in this State.

"Covered proceeding" means any proceeding in which a covered individual is a party and is seeking an avenue of relief from removal from the United States or is challenging his or her arrest or detention under the Immigration and Nationality Act and its implementing regulations. "Covered proceeding" includes:

(1) a proceeding or hearing in an immigration court and any related application to United States Citizenship and Immigration Services connected to the proceeding or hearing;

(2) an immigration proceeding conducted by telephone or video teleconference;

(3) a proceeding in a State court for purposes of obtaining a special findings order;

(4) a proceeding in a State court for purposes of vacating a conviction or modifying a sentence in which the conviction or sentence is relevant to the immigration proceedings at issue;

(5) a credible fear interview or reasonable fear interview;

(6) a habeas corpus petition to a federal district court challenging detention under the Immigration and Nationality Act;

(7) a motion to reopen or reconsider under 8 U.S.C. 1229a;

(8) a petition for review under 8 U.S.C. 1252;

(9) a remand to a federal district court from the United States Court of Appeals for fact-finding purposes; and

(10) any appeal related to any of the foregoing to the Board of Immigration Appeals, the United States Court of Appeals, or the United States Supreme Court.

"Domicile" means a true, fixed, and permanent legal home of an individual or the place to which the individual intends to return even though the individual may reside elsewhere.

"Domiciliary" means an individual who has established a domicile with respect to a particular jurisdiction.

"Immigration court" means a tribunal of the Executive Office for Immigration Review, or a successor entity, tasked with deciding the inadmissibility or deportability of a

noncitizen of the United States that is presided over by an immigration judge as defined in 8 U.S.C. 1101(b) (4).

"Legal services" means individual legal assistance in a single consultation, or ongoing legal representation, provided by a legal services provider to a covered individual, and all legal advice, advocacy, and assistance associated with the service.

"Legal services provider" means an individual, organization, or association that has the authority to provide legal services.

Section 15. Task Force on Counsel in Immigration Proceedings.

(a) The Task Force on Counsel in Immigration Proceedings is established.

(b) The Task Force shall consist of the following 7 members:

(1) the Governor, or his or her designee;

(2) the President of the Senate, or his or her designee;

(3) the Minority Leader of the Senate, or his or her designee;

(4) the Speaker of the House of Representatives, or his or her designee;

(5) the Minority Leader of the House of Representatives, or his or her designee;

- (6) the Attorney General, or his or her designee; and
- (7) the Secretary of Human Services, or his or her designee.

(c) Members of the Task Force shall serve without compensation.

(d) The Department of Human Services shall provide administrative and other support to the Task Force.

(e) The Task Force shall investigate the implementation of universal representation for covered individuals in immigration removal proceedings as described in subsection (f) of Section 5. The Task Force investigation shall include, but is not limited to, the following matters:

- (1) the estimated number of covered individuals facing a covered proceeding;

- (2) the current infrastructure for providing independent, competent, and zealous legal representation in a covered proceeding;

- (3) the additional resources, including salaries and benefits for attorneys and support staff, training, supervision, and material resources that would need to be added to the existing infrastructure described in paragraph (2) in order to provide independent, competent, and zealous legal representation for the number of covered individuals described in paragraph (1), including mechanisms for subcontracted relationships with independent experts and social service providers;

(4) the estimated annual cost of the additional resources described in paragraph (3);

(5) funding sources, public and private, that are or would be available to pay for the additional resources described in paragraph (3); and

(6) the estimated annual cost of bond payment support needed for covered individuals facing a covered proceeding, and the feasibility of a State-sponsored bond fund for those individuals.

(f) In order for the Governor and General Assembly to evaluate different scopes of legal representation in immigration court proceedings, the Task Force investigation described in subsection (e) shall provide additional findings in the following categories:

(1) State domiciliary versus non-State domiciliary covered individuals, and, among the State domiciliary covered individuals, the regions of residence within the State;

(2) household income above and below 250% of the federal poverty line;

(3) type of proceedings in which the covered individuals need legal representation; and

(4) current percentages of covered individuals in covered proceedings with and without legal representation.

(g) The Task Force shall submit a report of its findings in the investigation described in subsection (e) and its

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recommendations for how to fully provide legal representation for covered individuals facing covered proceedings no later than July 1, 2023.

Section 20. Repeal. This Act is repealed on July 1, 2024.

Section 99. Effective date. This Act takes effect upon becoming law.