

1 AN ACT concerning civil law.

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

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

6 Section 5. Purpose; findings.

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

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

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

23 (d) Legal representation is essential to effective

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

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

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

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

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

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

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

4 Section 10. Definitions. As used in this Act:

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

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

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

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

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

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

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

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

10          (7) a motion to reopen or reconsider under 8 U.S.C.  
11 1229a;

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

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

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

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

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

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

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

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

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

11 Section 15. Task Force on Counsel in Immigration  
12 Proceedings.

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

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

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

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

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

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

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

1 (6) the Attorney General, or his or her designee; and

2 (7) the Secretary of Human Services, or his or her  
3 designee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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