

SENATE BILL 129

01, D3

(PRE-FILED)

2lr1198
CF HB 114

By: **Senators Hettleman and Waldstreicher**

Requested: November 1, 2021

Introduced and read first time: January 12, 2022

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Access to Counsel in Immigration Proceedings Program**

3 FOR the purpose of establishing the Access to Counsel in Immigration Proceedings
4 Program administered by the Maryland Legal Services Corporation to provide access
5 to legal representation to certain individuals in certain immigration proceedings and
6 education and outreach to certain individuals, families, and communities affected by
7 immigration proceedings and detention; establishing the Access to Counsel in
8 Immigration Proceedings Special Fund as a special, nonlapsing fund; requiring
9 interest earnings of the Fund to be credited to the Fund; and generally relating to
10 the Access to Counsel in Immigration Proceedings Program.

11 BY adding to

12 Article – Human Services

13 Section 12–101 through 12–301 to be under the new title “Title 12. Access to Counsel
14 in Immigration Proceedings Program”

15 Annotated Code of Maryland

16 (2019 Replacement Volume and 2021 Supplement)

17 BY repealing and reenacting, without amendments,

18 Article – State Finance and Procurement

19 Section 6–226(a)(2)(i)

20 Annotated Code of Maryland

21 (2021 Replacement Volume)

22 BY repealing and reenacting, with amendments,

23 Article – State Finance and Procurement

24 Section 6–226(a)(2)(ii)144. and 145.

25 Annotated Code of Maryland

26 (2021 Replacement Volume)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY adding to
2 Article – State Finance and Procurement
3 Section 6–226(a)(2)(ii)146.
4 Annotated Code of Maryland
5 (2021 Replacement Volume)

6 Preamble

7 WHEREAS, More than 400 Marylanders are forced to fight permanent separation
8 from their family and community in detention every year; and

9 WHEREAS, At least 7 out of 10 detained Marylanders are unable to access counsel
10 in immigration proceedings; and

11 WHEREAS, More than 600 children of detained Marylanders are harshly and
12 needlessly impacted each year by a parent being placed in immigration detention; and

13 WHEREAS, Legal representation dramatically increases the chance that an
14 individual achieves a successful outcome in their immigration case; and

15 WHEREAS, Universal representation pilot programs in Baltimore City and Prince
16 George’s County have helped to keep many Maryland families together over the past 3
17 years; and

18 WHEREAS, Immigration proceedings have a disparate impact on black and brown
19 households; and

20 WHEREAS, Providing access to counsel to Maryland residents in immigration cases
21 is a proven means of keeping families and communities together and avoiding the resulting
22 social, economic, and public health costs of deportation; and

23 WHEREAS, Maryland residents must be able to access legal representation in any
24 immigration proceeding where their liberty is at stake to provide for equal access to justice
25 and the courts; and

26 WHEREAS, It is the policy of the State that residents facing deportation shall have
27 access to legal representation in immigration proceedings, and the State shall provide
28 access to such representation to Maryland residents to assist in the fair administration of
29 justice; now, therefore,

30 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
31 That the Laws of Maryland read as follows:

32 Article – Human Services

33 TITLE 12. ACCESS TO COUNSEL IN IMMIGRATION PROCEEDINGS PROGRAM.

SUBTITLE 1. DEFINITIONS.

12-101.

(A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) "COVERED INDIVIDUAL" MEANS AN INDIVIDUAL DETAINED IN THE UNITED STATES WHO IS NOT REPRESENTED BY COUNSEL AND IS:

(1) A MARYLAND RESIDENT; AND

(2) A MEMBER OF A HOUSEHOLD WITH AN INCOME THAT IS NOT GREATER THAN 50% OF THE MEDIAN INCOME, ADJUSTED FOR HOUSEHOLD SIZE, IN THE STATE AS DETERMINED BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES.

(C) "COVERED PROCEEDING" MEANS A JUDICIAL OR ADMINISTRATIVE PROCEEDING WHERE A COVERED INDIVIDUAL IS SUBJECT TO REMOVAL FROM THE UNITED STATES, OR A RELATED PROCEEDING, INCLUDING:

(1) HABEAS CORPUS PROCEEDINGS;

(2) FEDERAL APPEALS; OR

(3) ANY OTHER CIVIL LEGAL MATTERS AFFECTING A COVERED INDIVIDUAL'S REMOVAL PROCEEDINGS.

(D) "DESIGNATED COMMUNITY GROUP" MEANS A NONPROFIT COMMUNITY ORGANIZATION OR ASSOCIATION DESIGNATED BY MLSC THAT HAS THE CAPACITY AND DEMONSTRATED ABILITY TO CONDUCT OUTREACH AND PROVIDE ENGAGEMENT, EDUCATION, AND INFORMATION TO COVERED INDIVIDUALS, THEIR FAMILIES, OR COMMUNITIES IMPACTED BY IMMIGRATION DETENTION.

(E) "DESIGNATED ORGANIZATION" MEANS A NONPROFIT ORGANIZATION OR ASSOCIATION DESIGNATED BY MLSC THAT:

(1) HAS THE CAPACITY TO PROVIDE LEGAL REPRESENTATION FOR COVERED INDIVIDUALS OR IDENTIFY AND CONTRACT WITH PERSONS WHO CAN PROVIDE LEGAL REPRESENTATION; AND

(2) ENSURES INDEPENDENT, COMPETENT, AND ZEALOUS REPRESENTATION OF COVERED INDIVIDUALS.

1 (F) "FUND" MEANS THE ACCESS TO COUNSEL IN IMMIGRATION
2 PROCEEDINGS SPECIAL FUND.

3 (G) "MLSC" MEANS THE MARYLAND LEGAL SERVICES CORPORATION.

4 (H) "PROGRAM" MEANS THE ACCESS TO COUNSEL IN IMMIGRATION
5 PROCEEDINGS PROGRAM.

6 SUBTITLE 2. GENERAL PROVISIONS.

7 12-201.

8 (A) THERE IS AN ACCESS TO COUNSEL IN IMMIGRATION PROCEEDINGS
9 PROGRAM ADMINISTERED BY MLSC.

10 (B) THE PURPOSE OF THE PROGRAM IS TO ORGANIZE AND DIRECT
11 SERVICES AND RESOURCES IN ORDER TO PROVIDE ALL COVERED INDIVIDUALS WITH
12 ACCESS TO LEGAL REPRESENTATION IN ALL COVERED PROCEEDINGS.

13 12-202.

14 (A) A COVERED INDIVIDUAL SHALL HAVE ACCESS TO LEGAL
15 REPRESENTATION IN A COVERED PROCEEDING AS PROVIDED UNDER THIS
16 SUBTITLE.

17 (B) A DESIGNATED ORGANIZATION SHALL PROVIDE LEGAL
18 REPRESENTATION UNDER THE PROGRAM TO A COVERED INDIVIDUAL FOR A
19 COVERED PROCEEDING EITHER DIRECTLY OR BY CONTRACTING WITH A SUITABLE
20 PROVIDER AS REQUIRED UNDER THIS SUBTITLE.

21 (C) A DESIGNATED ORGANIZATION SHALL ENSURE THAT A COVERED
22 INDIVIDUAL RECEIVES LEGAL REPRESENTATION IN A COVERED PROCEEDING AS
23 SOON AS POSSIBLE AFTER THE INITIATION OF A COVERED PROCEEDING.

24 (D) IF FEASIBLE, LEGAL REPRESENTATION UNDER THIS SUBTITLE SHALL
25 BEGIN NOT LATER THAN THE TIME OF THE INDIVIDUAL'S FIRST SCHEDULED
26 APPEARANCE IN A COVERED PROCEEDING.

27 12-203.

28 MLSC SHALL CONTRACT WITH DESIGNATED COMMUNITY GROUPS AND
29 AWARD GRANTS TO DESIGNATED ORGANIZATIONS TO CONDUCT OUTREACH AND

1 PROVIDE EDUCATION IN APPROPRIATE LANGUAGES TO COVERED INDIVIDUALS,
2 THEIR FAMILIES, AND COMMUNITIES IMPACTED BY IMMIGRATION DETENTION BY:

3 (1) HOSTING KNOW-YOUR-RIGHTS TRAININGS AND OTHER
4 WORKSHOPS;

5 (2) DISTRIBUTING WRITTEN INFORMATION; AND

6 (3) ANY OTHER ACTIVITY NEEDED TO ENGAGE, EDUCATE, AND
7 INFORM INDIVIDUALS ABOUT THEIR RIGHTS.

8 12-204.

9 (A) ON OR BEFORE AUGUST 31, 2024, AND EACH AUGUST 31 THEREAFTER,
10 MLSC SHALL SUBMIT A WRITTEN REPORT TO THE GOVERNOR AND, IN
11 ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE HOUSE
12 JUDICIARY COMMITTEE AND THE SENATE JUDICIAL PROCEEDINGS COMMITTEE.

13 (B) THE REPORT SHALL PROVIDE:

14 (1) THE NUMBER OF COVERED INDIVIDUALS PROVIDED LEGAL
15 REPRESENTATION DURING THE PREVIOUS CALENDAR YEAR;

16 (2) INFORMATION ON AND METRICS EVALUATING THE CASE
17 OUTCOMES; AND

18 (3) A SUMMARY OF THE ENGAGEMENT WITH AND EDUCATION OF
19 COVERED INDIVIDUALS, FAMILY MEMBERS, AND COMMUNITY MEMBERS
20 VULNERABLE TO DETENTION AND DEPORTATION.

21 SUBTITLE 3. ACCESS TO COUNSEL IN IMMIGRATION PROCEEDINGS SPECIAL
22 FUND.

23 12-301.

24 (A) THERE IS AN ACCESS TO COUNSEL IN IMMIGRATION PROCEEDINGS
25 SPECIAL FUND.

26 (B) THE PURPOSE OF THE FUND IS TO PROVIDE FUNDING TO IMPLEMENT
27 ACCESS TO LEGAL REPRESENTATION IN COVERED PROCEEDINGS.

28 (C) MLSC SHALL ADMINISTER THE FUND.

1 **(D) (1) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT**
2 **SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.**

3 **(2) THE STATE TREASURER SHALL HOLD THE FUND SEPARATELY,**
4 **AND THE COMPTROLLER SHALL ACCOUNT FOR THE FUND.**

5 **(E) THE FUND CONSISTS OF:**

6 **(1) MONEY APPROPRIATED IN THE STATE BUDGET TO THE FUND;**

7 **(2) INTEREST EARNINGS OF THE FUND; AND**

8 **(3) ANY OTHER MONEY FROM ANY OTHER SOURCE ACCEPTED FOR**
9 **THE BENEFIT OF THE FUND.**

10 **(F) THE FUND MAY BE USED ONLY FOR:**

11 **(1) SERVICES PROVIDED TO IMPLEMENT THE PROGRAM AS**
12 **PROVIDED IN THIS SUBTITLE, INCLUDING COSTS ASSOCIATED WITH REQUIRED**
13 **LEGAL REPRESENTATION IN COVERED PROCEEDINGS AND ANY OUTREACH AND**
14 **EDUCATION ACTIVITIES;**

15 **(2) ADMINISTRATIVE EXPENSES OF MLSC; AND**

16 **(3) EXPENSES RELATED TO THE STUDY AND EVALUATION OF**
17 **SERVICES AND ACTIVITIES PROVIDED UNDER THIS SUBTITLE.**

18 **(G) (1) THE STATE TREASURER SHALL INVEST THE MONEY OF THE FUND**
19 **IN THE SAME MANNER AS OTHER STATE MONEY MAY BE INVESTED.**

20 **(2) ANY INTEREST EARNINGS OF THE FUND SHALL BE CREDITED TO**
21 **THE FUND.**

22 **(H) EXPENDITURES FROM THE FUND MAY BE MADE ONLY IN ACCORDANCE**
23 **WITH THE STATE BUDGET.**

24 **(I) MONEY EXPENDED FROM THE FUND IS SUPPLEMENTAL TO AND IS NOT**
25 **INTENDED TO TAKE THE PLACE OF FUNDING THAT OTHERWISE WOULD BE**
26 **APPROPRIATED FOR CIVIL LEGAL SERVICES FROM ANY OTHER SOURCE.**

27 **(J) FOR EACH FISCAL YEAR, THE GOVERNOR SHALL INCLUDE IN THE**
28 **ANNUAL BUDGET BILL AN APPROPRIATION OF \$8,000,000 TO THE FUND.**

1 **Article – State Finance and Procurement**

2 6–226.

3 (a) (2) (i) Notwithstanding any other provision of law, and unless
4 inconsistent with a federal law, grant agreement, or other federal requirement or with the
5 terms of a gift or settlement agreement, net interest on all State money allocated by the
6 State Treasurer under this section to special funds or accounts, and otherwise entitled to
7 receive interest earnings, as accounted for by the Comptroller, shall accrue to the General
8 Fund of the State.

9 (ii) The provisions of subparagraph (i) of this paragraph do not apply
10 to the following funds:

11 144. the Health Equity Resource Community Reserve Fund;
12 [and]

13 145. the Access to Counsel in Evictions Special Fund; AND

14 **146. THE ACCESS TO COUNSEL IN IMMIGRATION**
15 **PROCEEDINGS SPECIAL FUND.**

16 SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
17 the application thereof to any person or circumstance is held invalid for any reason in a
18 court of competent jurisdiction, the invalidity does not affect other provisions or any other
19 application of this Act that can be given effect without the invalid provision or application,
20 and for this purpose the provisions of this Act are declared severable.

21 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
22 October 1, 2022.