

AMENDMENT TO H.R. 7147
OFFERED BY MRS. TORRES OF CALIFORNIA

At the end of the bill, before the short title, insert the following:

1 DIVISION D—FAIRNESS TO FREEDOM ACT

2 SHORT TITLE; TABLE OF CONTENTS

3 SECTION 1.

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Fairness to Freedom Act of 2025”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GUARANTEEING THE RIGHT TO COUNSEL

Sec. 101. Guaranteeing and expanding the right to counsel.

Sec. 102. Public charge.

TITLE II—OFFICE OF IMMIGRATION REPRESENTATION

Sec. 201. Definitions.

Sec. 202. Establishment; purpose; independence.

Sec. 203. Board of Directors.

Sec. 204. Director.

Sec. 205. Employees.

Sec. 206. Local immigration representation boards.

Sec. 207. Types of immigration defenders.

Sec. 208. Compensation and reimbursement of expenses of counsel.

Sec. 209. Services other than counsel.

Sec. 210. Immigration Representation Advisory Board.

TITLE III—AUTHORIZATION OF APPROPRIATIONS

Sec. 301. Authorization of appropriations.

Sec. 302. Minimum funding for the Office of Immigration Representation.

1 **TITLE I—GUARANTEEING THE**
2 **RIGHT TO COUNSEL**

3 **SEC. 101. GUARANTEEING AND EXPANDING THE RIGHT TO**
4 **COUNSEL.**

5 Section 292 of the Immigration and Nationality Act
6 (8 U.S.C. 1362) is amended to read as follows:

7 **“SEC. 292. RIGHT TO COUNSEL.**

8 “(a) **IN GENERAL.**—Any individual in any removal,
9 exclusion, deportation, bond, or expedited removal pro-
10 ceeding under section 212(d)(5)(A), 235(b)(1)(B), 236,
11 238, 240, or 241 or in any matter related to any such
12 proceeding before U.S. Citizenship and Immigration Serv-
13 ices, any State court, or any court created under article
14 III of the Constitution of the United States, any individual
15 who is financially unable to obtain representation subject
16 to such proceeding shall be entitled to legal representation
17 at Government expense in accordance with this section.

18 “(b) **MATTERS INCLUDED.**—Proceedings and mat-
19 ters referred to in subsection (a) shall include—

20 “(1) petitions for a writ of habeas corpus under
21 section 2241 of title 28, United States Code, or any
22 other similar proceeding;

23 “(2) administrative and judicial proceedings for
24 individuals who may be eligible for special immigrant

1 juvenile status under section 1101(a)(27)(J)(ii) of
2 title 8, United States Code;

3 “(3) applications before the U.S. Citizenship
4 and Immigration Services related to relief from re-
5 moval, and post-conviction relief in criminal pro-
6 ceedings;

7 “(4) post-conviction relief in criminal pro-
8 ceedings; and

9 “(5) any other legal proceeding involving an in-
10 dividual described in subsection (a) that is related to
11 such individual’s legal status in the United States.

12 “(c) SCOPE OF COUNSEL.—

13 “(1) ADVOCACY.—Consistent with Rule 1.3 of
14 the American Bar Association’s Model Rules of Pro-
15 fessional conduct, attorneys and other persons pro-
16 viding representation to individuals in proceedings or
17 matters described in subsection (a) shall—

18 “(A) act with reasonable diligence, prompt-
19 ness, commitment, and dedication to the inter-
20 ests of the client and with zeal in advocating on
21 the client’s behalf; and

22 “(B) hold the Government to its burden by
23 presenting the fullest defense possible in each
24 such proceeding or matter.

1 “(2) SCOPE OF REPRESENTATION.—Representen-
2 tation under this section shall include—

3 “(A) counsel and interpretation and trans-
4 lation services; and

5 “(B) any other services that are necessary
6 for effective representation, including the serv-
7 ices described in section 309 of the Fairness to
8 Freedom Act of 2025.

9 “(3) COMMENCEMENT OF REPRESENTATION.—

10 “(A) IN GENERAL.—The right to counsel
11 of a person detained in, or released from, the
12 custody of the Department of Homeland Secu-
13 rity or the Department of Health and Human
14 Services shall attach at the earlier of—

15 “(i) the placement of the person in
16 the custody of either department, regard-
17 less of whether the person has been for-
18 mally placed in a proceeding described in
19 subsection (a); or

20 “(ii) the issuance to the person of a
21 Notice to Appear or other document initi-
22 ating proceedings under section 235, 238,
23 240, or 241.

24 “(B) CLARIFICATION.—The appointment
25 of counsel based on the issuance of a Notice to

1 Appear shall occur regardless of whether the
2 Notice to Appear has been filed with the immi-
3 gration court. The appointment of counsel for a
4 detained person shall occur as soon as possible,
5 but in no event later than 24 hours after such
6 person is taken into the custody of the Depart-
7 ment of Homeland Security.

8 “(4) CONTINUOUS REPRESENTATION.—

9 “(A) IN GENERAL.—An individual for
10 whom counsel is appointed under this section
11 shall be represented continuously at every stage
12 of proceedings beginning with the initial ap-
13 pearance before any official with adjudicatory
14 authority and including any proceedings before
15 the Immigration Courts, the Board of Immigra-
16 tion Appeals, Federal district courts, Federal
17 courts of appeal, and the United States Su-
18 preme Court, including ancillary matters related
19 to the proceedings described in subsection (a),
20 and ending when all such proceedings have con-
21 cluded.

22 “(B) APPOINTMENT OF DIFFERENT COUN-
23 SEL.—If the nature of the representation need-
24 ed by a person in proceedings under this section
25 requires the appointment of different represent-

1 atives for different stages of such proceedings,
2 all such representatives shall comply with the
3 minimum standards of representation described
4 in paragraph (1).

5 “(C) APPOINTMENT OF NEW COUNSEL
6 AFTER RELOCATION.—The Office of Immigra-
7 tion Representation established under section
8 202 of the Fairness to Freedom Act of 2025
9 shall ensure that each individual who is released
10 from custody and moves to a State or munici-
11 pality other than the State or municipality in
12 which he or she was in custody, or who is trans-
13 ferred to a detention facility in another State or
14 municipality is provided with counsel in the new
15 State or municipality in which the individual re-
16 sides or is detained.

17 “(5) CONSTRUCTION.—This subsection shall be
18 broadly construed to attach in any proceeding and
19 related matter, including any petition for review or
20 appellate process, request for re-interview, request
21 for reconsideration, and motion to reopen, arising
22 from a proceeding or matter described in subsection
23 (a).

24 “(d) ELIGIBILITY AND COMMENCEMENT OF IMMI-
25 GRATION PROCEEDINGS.—

1 “(1) NOTIFICATION.—A proceeding described in
2 subsection (a) shall not commence until counsel has
3 been appointed to represent the individual subject to
4 such proceeding. If such a proceeding has already
5 commenced without the appointment of counsel,
6 such proceeding shall be paused until such counsel
7 is appointed. Before commencing a proceeding de-
8 scribed in subsection (a), the adjudicatory official,
9 who may be an official of U.S. Immigration and
10 Customs Enforcement or of U.S. Customs and Bor-
11 der Protection, under a plan approved by the Office
12 of Immigration Representation, shall notify the indi-
13 vidual subject to such proceeding that—

14 “(A) such individual has the right to be
15 represented by counsel; and

16 “(B) counsel will be appointed to represent
17 such individual before the commencement of
18 such proceeding if the individual—

19 “(i) has not retained private counsel;

20 and

21 “(ii) is financially unable to obtain
22 counsel.

23 “(2) DETERMINATION OF FINANCIAL ABILITY
24 TO OBTAIN COUNSEL.—

1 “(A) IN GENERAL.—An individual shall be
2 deemed to be financially unable to obtain coun-
3 sel under paragraph (1)(B)(ii) if the individ-
4 ual’s net financial resources and income are in-
5 sufficient to obtain qualified counsel.

6 “(B) ELIGIBILITY FOR COUNSEL.—An in-
7 dividual who makes a sworn statement to the
8 adjudicatory official referred to in subsection
9 (a) that he or she is a member of a family
10 whose income is not more than 200 percent of
11 the poverty line (as defined in section 673(2) of
12 the Community Services Block Grant Act (42
13 U.S.C. 9902(2))) is eligible for Government-ap-
14 pointed counsel under this section.

15 “(3) ACCESS TO PERTINENT DOCUMENTS AND
16 INFORMATION.—

17 “(A) IN GENERAL.—An individual de-
18 scribed in subsection (a) and his or her counsel
19 shall automatically receive a complete copy of
20 all documents and information pertaining to
21 such individual that are in the possession of the
22 Department of Homeland Security or the De-
23 partment of Health and Human Services, in-
24 cluding documents obtained from other Govern-
25 ment agencies, unless the disclosure of any such

1 document or information is barred by privilege
2 or otherwise prohibited by law.

3 “(B) RECORDS.—Not later than 7 days
4 after counsel is appointed to represent an indi-
5 vidual under this Act, the Director of U.S. Citi-
6 zenship and Immigration Services shall—

7 “(i) provide such individual and coun-
8 sel with a complete copy of the individual’s
9 immigration file (commonly known as the
10 ‘A-file’); and

11 “(ii) facilitate the provision to such
12 individual and counsel of a copy of any
13 Record of Proceeding that is in the posses-
14 sion of the Department of Homeland Secu-
15 rity, the Department of Health and
16 Human Services, or the Department of
17 Justice (other than documents protected
18 from disclosure under section 552(b) of
19 title 5, United States Code).

20 “(4) RESTRICTION.—A proceeding described in
21 subsection (a) may not commence before the date
22 that is 10 days after the date on which the indi-
23 vidual, or the individual’s counsel, has received all of
24 the documents described in paragraph (3), in order
25 to review and assess such documents, unless the in-

1 dividual or his or her counsel knowingly and volun-
2 tarily waives such restriction.

3 “(e) APPOINTMENT OF COUNSEL.—

4 “(1) NOTIFICATION REQUIREMENT.—If an indi-
5 vidual who is entitled to representation under this
6 section is not represented by counsel, the adjudica-
7 tory official shall—

8 “(A) notify the Local Administrator ap-
9 pointed pursuant to section 206(k)(3) of the
10 Fairness to Freedom Act of 2025 (or the des-
11 ignee of the Local Administrator) that such in-
12 dividual is not represented by counsel; and

13 “(B) advise such individual—

14 “(i) of his or her right to be rep-
15 resented by counsel; and

16 “(ii) that such counsel will be ap-
17 pointed if such person is financially unable
18 to obtain counsel.

19 “(2) WAIVER.—An individual’s right to be rep-
20 resented by appointed counsel may only be waived by
21 the individual—

22 “(A) in the physical presence of appointed
23 counsel;

24 “(B) if such waiver is knowing and vol-
25 untary; and

1 “(C) if the individual demonstrates that he
2 or she—

3 “(i) understands the nature of any
4 charges and the possible defenses and out-
5 comes; and

6 “(ii) possesses the knowledge and in-
7 telligence necessary to conduct his or her
8 own defense.

9 “(3) APPEAL OF WAIVER; RETROACTIVE AP-
10 POINTMENT.—Counsel may appeal any putative
11 waiver to the Office of Immigration Representation
12 established under section 202 of the Fairness to
13 Freedom Act of 2025 if counsel reasonably believes
14 that such waiver did not meet the requirements
15 under paragraph (2). If the Office of Immigration
16 Representation concurs with counsel’s assessment,
17 the Office may retroactively appoint counsel in order
18 to include any representation furnished pursuant to
19 the plan before such appointment.

20 “(4) APPOINTMENT OF COUNSEL.—Unless an
21 individual waives representation by counsel pursuant
22 to paragraph (2), the Local Administrator, upon no-
23 tification that an individual may meet the criteria
24 for appointed counsel, shall appoint counsel for such
25 individual in accordance with the Local Plan devel-

1 oped pursuant to section 206(k)(1) of the Fairness
2 to Freedom Act of 2025 if the Local Administrator
3 determines, after appropriate inquiry, that such indi-
4 vidual is financially unable to obtain counsel. An ap-
5 pointment under this paragraph may be made retro-
6 active to include any representation furnished to
7 such individual by such counsel before such appoint-
8 ment.

9 “(5) APPOINTMENT OF SEPARATE COUNSEL.—
10 The Local Administrator shall appoint separate
11 counsel for individuals who are subjected to the
12 same proceeding or related proceedings if—

13 “(A) the interests of such individuals can-
14 not, consistent with ethical responsibilities and
15 manageable workloads, be properly be rep-
16 resented by a single counsel; or

17 “(B) the Local Administrator dem-
18 onstrates another good cause for appointing
19 separate counsel.

20 “(6) CONSOLIDATED CASES.—

21 “(A) IN GENERAL.—Subject to paragraph
22 (5) and except as provided in subparagraph
23 (B), if the Attorney General consolidates the
24 case of an individual for whom counsel was ap-
25 pointed pursuant to subsection (a) with the case

1 of another individual without counsel, the coun-
2 sel appointed pursuant to subsection (a) shall
3 be appointed to represent such other individual
4 unless a conflict of interest would prevent joint
5 representation.

6 “(B) CONFLICT OF INTEREST.—If a con-
7 flict of interest prevents joint representation
8 under subparagraph (A), the Local Adminis-
9 trator shall appoint separate counsel for the in-
10 dividuals referred to in such subparagraph un-
11 less the Local Administrator demonstrates that
12 there is a good cause for not appointing sepa-
13 rate counsel.

14 “(7) CHANGE OF FINANCIAL CIRCUMSTANCES
15 DURING PROCEEDINGS.—If an individual who has
16 retained counsel becomes financially unable to pay
17 such counsel and is eligible for appointed counsel
18 under this section, the Local Administrator may ap-
19 point counsel for such individual in accordance with
20 this section.

21 “(8) SUBSTITUTION OF COUNSEL.—The Local
22 Administrator, in the interests of justice, upon a
23 showing of good cause, and consistent with ethical
24 requirements applicable to attorneys practicing in
25 the region, substitute an appointed counsel for an-

1 other appointed counsel at any stage of a proceeding
2 referred to in subsection (a).

3 “(f) ACCESS TO COUNSEL.—

4 “(1) IN GENERAL.—If an individual is subject
5 to proceedings described in subsection (a) or to de-
6 tention or inspection at a port of entry, U.S. Cus-
7 toms and Border Protection, U.S. Immigration and
8 Customs Enforcement, or the Office of Refugee Re-
9 settlement, as appropriate, shall—

10 “(A) facilitate access for such individual to
11 counsel; and

12 “(B) ensure that counsel appointed under
13 this section is permitted to meet in person with
14 such individual in a confidential, private setting
15 when requested during the first 12 hours the
16 individual is detained and as soon as practicable
17 after subsequent meeting requests.

18 “(2) ALTERNATIVE MEETING OPTIONS.—If
19 counsel appointed pursuant to this section cannot
20 personally meet with an individual described in para-
21 graph (1) to whom such counsel was appointed to
22 represent, U.S. Customs and Border Protection,
23 U.S. Immigration and Customs Enforcement, or the
24 Office of Refugee Resettlement, as appropriate, at
25 the request of such individual or the counsel of the

1 individual, shall provide alternative options through
2 which counsel may communicate with such indi-
3 vidual remotely in a confidential, private manner
4 during the first 12 hours such individual is detained
5 and as soon as practicable after subsequent meeting
6 requests.

7 “(3) EFFECT OF FAILURE TO PROVIDE TIMELY
8 ACCESS TO COUNSEL.—If U.S. Customs and Border
9 Protection, U.S. Immigration and Customs Enforce-
10 ment, or the Office of Refugee Resettlement, as ap-
11 plicable, fails to timely provide an individual with ac-
12 cess to counsel in accordance with paragraph (1) or
13 (2), no statement made by the individual before such
14 access has been made available may be introduced
15 into evidence against the respondent except on a mo-
16 tion by the appointed counsel, who shall be entitled
17 to a continuance in the proceedings giving rise to the
18 appointment of such counsel.

19 “(4) LIMITATION.—An individual held or de-
20 tained at a port of entry may not submit a valid
21 Record of Abandonment of Lawful Permanent Resi-
22 dent Status or Withdrawal of Application for Admis-
23 sion if U.S. Customs and Border Protection or U.S.
24 Immigration and Customs Enforcement has failed to

1 provide such individual with access to counsel in ac-
2 cordance with this section.

3 “(5) INSTITUTIONAL HEARING PROGRAM.—In-
4 dividuals held in Federal, State, or local criminal
5 custody who are placed in any proceeding described
6 in subsection (a) shall be ensured access to counsel
7 consistent with the requirements of this section. No
8 statement made by the respondent before such ac-
9 cess has been made available may be introduced into
10 evidence against the respondent except on appointed
11 counsel’s own motion. Counsel shall be entitled to a
12 continuance in the proceedings giving rise to his or
13 her appointment.

14 “(6) TERMINATION OF PROCEEDINGS.—If the
15 Local Administrator fails to provide counsel to an
16 individual in accordance with this section, the Sec-
17 retary of Homeland Security or the Attorney Gen-
18 eral, as appropriate, shall terminate any proceedings
19 involving such individual with prejudice.”

20 **SEC. 102. PUBLIC CHARGE.**

21 Seeking or receiving appointed counsel under section
22 292 of the Immigration and Nationality Act, as amended
23 by section 101, may not be serve as the basis for any de-
24 termination that the individual seeking or receiving such
25 services is likely to become a public charge for the pur-

1 poses of determining the admissibility, removability, ex-
2 cludability, or deportability of such individual under such
3 Act, or in any other proceeding in which such individual's
4 likelihood of becoming a public charge is at issue for immi-
5 gration purposes.

6 **TITLE II—OFFICE OF IMMIGRA-** 7 **TION REPRESENTATION**

8 **SEC. 201. DEFINITIONS.**

9 In this title:

10 (1) BOARD.—The term “Board” means the
11 Board of Directors of the Office.

12 (2) DIRECTOR.—The term “Director” means
13 the Director of the Office of Immigration Represen-
14 tation appointed pursuant to section 206(k)(1).

15 (3) IMMIGRATION PUBLIC DEFENDER ORGANI-
16 ZATION.—The term “Immigration Public Defender
17 Organization” means an organization established by
18 a Local Board pursuant to section 207(a)(1).

19 (4) LOCAL BOARD.—The term “Local Board”
20 means a local immigration representation board es-
21 tablished within a region pursuant to section 206(a).

22 (5) OFFICE.—The term “Office” means the Of-
23 fice of Immigration Representation established
24 under section 202(a).

1 **SEC. 202. ESTABLISHMENT; PURPOSE; INDEPENDENCE.**

2 (a) ESTABLISHMENT.—There is established in the
3 District of Columbia a private nonprofit corporation,
4 which shall be known as the Office of Immigration Rep-
5 resentation.

6 (b) PURPOSE.—The purpose of the Office shall be to
7 ensure high-quality legal representation and related serv-
8 ices to all individuals described in section 292(a) of the
9 Immigration and Nationality Act, as amended by section
10 101, who cannot afford representation.

11 (c) INDEPENDENCE.—Except as otherwise provided
12 in this Act, the Office shall exercise its authority inde-
13 pendently of any Government official, agency, or depart-
14 ment, including the Department of Justice, the Depart-
15 ment of Homeland Security, and the Department of
16 Health and Human Services.

17 **SEC. 203. BOARD OF DIRECTORS.**

18 (a) NUMBER AND APPOINTMENT.—

19 (1) IN GENERAL.—The Office shall be governed
20 by a Board of Directors, consisting of 24 members
21 who shall be appointed not later than 1 year after
22 the date of the enactment of this Act, in accordance
23 with paragraph (2).

24 (2) INITIAL JUDICIAL APPOINTMENTS.—

25 (A) IN GENERAL.—Subject to subpara-
26 graphs (B) and (C), the chief judge of each

1 United States Court of Appeals (except for the
2 chief judge for the Federal Circuit) shall ap-
3 point 2 individuals to the Board who meet the
4 requirements set forth in subsection (b).

5 (B) STAGGERED TERMS OF SERVICE.—The
6 terms of service of the members of the Board
7 appointed pursuant to subparagraph (A) shall
8 be staggered so that—

9 (i) 6 members serve an initial term of
10 1 year;

11 (ii) 6 members serve an initial term of
12 2 years;

13 (iii) 6 members serve an initial term
14 of 3 years; and

15 (iv) 6 members serve an initial term
16 of 4 years.

17 (C) CIRCUITS.—

18 (i) EASTERN CIRCUITS.—The chief
19 judge of the 1st, 2nd, 3rd, 4th, 11th, and
20 DC Circuit Courts of Appeals shall appoint
21 1 individual to serve an initial term of 1
22 year and 1 individual to serve an initial
23 term of 4 years.

24 (ii) REMAINING CIRCUITS.—The chief
25 judge of the 5th, 6th, 7th, 8th, 9th, and

1 10th Circuit Courts of Appeals shall ap-
2 point 1 individual to serve an initial term
3 of 2 years and 1 individual to serve an ini-
4 tial term of 3 years.

5 (3) IMMIGRATION REPRESENTATION ADVISORY
6 BOARD APPOINTMENTS.—

7 (A) INITIAL APPOINTMENTS.—Upon the
8 expiration of the initial term of the 6 members
9 of the Board who were appointed to 1-year
10 terms pursuant to paragraph (2)(B)(i), the Im-
11 migration Representation Advisory Board es-
12 tablished under section 210 shall appoint to 4-
13 year terms—

14 (i) 6 members of the Board;
15 (ii) an Immigration Public Defender,
16 who shall serve as a nonvoting, ex-officio
17 member of the Board; and

18 (iii) a Panel Attorney, who shall serve
19 as a nonvoting, ex-officio member of the
20 Board.

21 (B) SUBSEQUENT APPOINTMENTS.—Upon
22 the expiration of the initial term of the 6 mem-
23 bers of the Board who were appointed to 2-year
24 terms pursuant to paragraph (2)(B)(ii), the Im-
25 migration Representation Advisory Board es-

1 tablished under section 210 shall appoint 6
2 members of the Board to 4-year terms. The Im-
3 migration Representation Advisory Board shall
4 also appoint individuals to replace any member
5 of the Board who had been appointed by the
6 Advisory Board, upon the expiration of such
7 member's term.

8 (4) SUBSEQUENT JUDICIAL APPOINTMENTS.—

9 (A) IN GENERAL.—Upon the expiration of
10 the term of any member of the Board appointed
11 by a chief judge to a 3-year or 4-year term,
12 such chief judge shall appoint an individual to
13 the Board from a list of 5 qualified individuals
14 nominated, by majority vote, by a committee
15 consisting of—

16 (i) the head of each Immigration Pub-
17 lic Defender Organization that is
18 headquartered within the corresponding
19 circuit;

20 (ii) the head of each Community De-
21 fender Office that is headquartered within
22 the corresponding circuit; and

23 (iii) panel attorney representatives
24 within the corresponding circuit.

1 (B) FAILURE TO PRODUCE LIST.—If a
2 committee described in subparagraph (A) from
3 a circuit does not provide a list of 5 Board
4 nominees to the chief judge of the cor-
5 responding circuit before the date that is 30
6 days after the expiration of the term of service
7 of a member of the Board representing such
8 circuit, the chief judge of such circuit may ap-
9 point an individual to replace such member of
10 the Board without regard to nominations.

11 (b) RESTRICTIONS ON MEMBERSHIP.—

12 (1) QUALIFICATIONS.—Each individual ap-
13 pointed to the Board pursuant to subsection (a)—

14 (A) shall be nonpartisan;

15 (B) shall have significant experience rep-
16 resenting persons in proceedings described in
17 section 292(a) of the Immigration and Nation-
18 ality Act, as amended by section 101 of this
19 Act; and

20 (C) shall have demonstrated a strong com-
21 mitment to representation in indigent defense
22 matters.

23 (2) DIVERSITY.—In making appointments to
24 the Board under subsection (a), chief judges and the
25 Immigration Representation Advisory Board shall

1 seek to appoint individuals, in the aggregate, who re-
2 flect the characteristics of the population rep-
3 resented by counsel appointed pursuant section 292
4 of the Immigration and Nationality Act, including
5 the characteristics of race, gender identity, sexual
6 orientation, immigration experience, and socio-
7 economic background.

8 (3) DISQUALIFYING CHARACTERISTICS.—A
9 member of the Board, while serving in such capac-
10 ity, may not be—

11 (A) an employee of the Office or a member
12 of a Local Board, an Immigration Public De-
13 fender Organization or Community Defender
14 Office, or a Panel Attorney, unless he or she is
15 serving as an ex-officio member of the Board;

16 (B) a judge or employee of any Federal or
17 State court, any immigration court, or the
18 Board of Immigration Appeals; or

19 (C) a prosecutor or law enforcement officer
20 or employee thereof, or any person who has
21 held such a position during the 3-year period
22 immediately preceding his or her appointment
23 to the Board.

24 (c) TERM OF MEMBERSHIP.—

1 (1) MAXIMUM LENGTH OF SERVICE.—No mem-
2 ber of the Board may serve more than 2 terms, ex-
3 cept that a person who was appointed to serve a 1-
4 year term may be appointed to 2 additional 4-year
5 terms.

6 (2) REPLACEMENT MEMBERS.—A person who
7 is appointed to replace a member who resigned or
8 was removed—

9 (A) shall serve the remainder of the term
10 of such member; and

11 (B) may be appointed to serve up to 2 ad-
12 ditional 4-year terms.

13 (d) VACANCIES.—

14 (1) MEMBERS SELECTED BY A CHIEF JUDGE.—
15 Not later than 90 days after the creation of a va-
16 cancy arising from a Board member position selected
17 by a chief judge, the committee described in sub-
18 section (a)(2)(A) from the corresponding circuit
19 shall submit a list of 5 qualified nominees to such
20 chief judge, who shall appoint 1 of such nominees as
21 the new member of the Board.

22 (2) FAILURE TO PRODUCE LIST.—If the com-
23 mittee fails to submit the list required under para-
24 graph (1) before the deadline, the chief judge may
25 make a selection without regard to nominations.

1 (3) MEMBERS SELECTED BY THE IMMIGRATION
2 REPRESENTATION ADVISORY BOARD.—Not later
3 than 90 days after the creation of a vacancy arising
4 from a Board member position selected by the Immi-
5 gration Representation Advisory Board, the Immi-
6 gration Representation Advisory Board shall appoint
7 a new member of the Board to fill such vacancy.

8 (e) RATES OF PAY; TRAVEL EXPENSES.—

9 (1) RATES OF PAY.—Members shall be paid for
10 their services on the Board at a rate not to exceed
11 the daily rate at which judges of the United States
12 courts of appeals are compensated. No member may
13 be paid for more than 90 days in any calendar year.

14 (2) TRAVEL EXPENSES.—Each member shall
15 receive travel expenses, including per diem in lieu of
16 subsistence, in accordance with applicable provisions
17 under subchapter I of chapter 57 of title 5, United
18 States Code.

19 (f) CHAIRPERSON.—The Chairperson of the Board
20 shall be elected by the members and shall serve for a 2-
21 year term, which may be renewed once by the Board for
22 an additional 2-year term.

23 (g) REMOVAL OF MEMBERS.—The members of the
24 Board, by a vote of 13 members, may remove a member
25 from the Board for—

1 (1) malfeasance in office;

2 (2) persistent neglect of, or inability to dis-
3 charge, Board duties; or

4 (3) conduct unbecoming of a member of the
5 Board.

6 (h) QUORUM.—A quorum for purposes of conducting
7 Board business shall be a majority of the members of the
8 Board presently serving.

9 (i) VOTING.—All members of the Board are entitled
10 to vote on any matters coming before the Board unless
11 otherwise provided by rules adopted by the Board con-
12 cerning voting on matters in which a member has, or ap-
13 pears to have, a financial or other personal interest.

14 (j) BYLAWS.—The Board shall adopt bylaws gov-
15 erning the operation of the Board, which may include pro-
16 visions authorizing other officers of the Board and gov-
17 erning proxy voting, telephonic and video meetings, and
18 the appointment of committees.

19 (k) DUTIES OF THE BOARD.—The Board shall—

20 (1) appoint a Director of the Office not later
21 than 2 months after the establishment of the
22 Board—

23 (A) who shall be selected on the basis of
24 training, experience, and other relevant quali-
25 fications; and

1 (B) who shall serve at the pleasure of the
2 Board;

3 (2) convene a meeting not later than 4 months
4 after the establishment of the Board, and not less
5 frequently than quarterly thereafter;

6 (3) submit appropriations requests to Congress
7 for the provision of legal services to individuals rep-
8 resented by counsel in proceedings described in sec-
9 tion 292(a) of the Immigration and Nationality Act,
10 as amended by section 101(a);

11 (4) submit an annual report to Congress and
12 the President that—

13 (A) describes the operation of the Office
14 and the delivery of services required under sec-
15 tion 292 of the Immigration and Nationality
16 Act; and

17 (B) includes—

18 (i) the number of people who were
19 provided legal services during the reporting
20 period pursuant to such section 292 and
21 the types of proceedings in which such peo-
22 ple were represented;

23 (ii) the custodial status of the people
24 who were represented;

1 (iii) aggregate case outcomes for the
2 people who were represented; and

3 (iv) the status of appointments and
4 vacancies on the Board and Local Boards;

5 (5) complete and submit to Congress and to the
6 President every 7 years a comprehensive review and
7 evaluation of the implementation of this Act, includ-
8 ing the identification of the resources needed to
9 carry out the requirements under this Act and the
10 amendments made by this Act for the foreseeable fu-
11 ture;

12 (6) make the reports described in paragraphs
13 (4) and (5) publicly available at the time they are
14 submitted to Congress and to the President;

15 (7) establish and maintain standards for the
16 provision of representation that are consistent with
17 appointed counsel's duty to provide representation
18 under section 292 of the Immigration and Nation-
19 ality Act, including—

20 (A) the minimum experience, skill, per-
21 formance, and other qualifications for participa-
22 tion as appointed counsel;

23 (B) ongoing training, professional develop-
24 ment, and mentorship and supervision required

1 to remain eligible to serve as appointed counsel
2 under such section 292;

3 (C) reasonable, manageable, and sustain-
4 able appointed counsel caseloads that are con-
5 sistent with appointed counsel's primary duty to
6 provide representation to individuals described
7 in such section 292;

8 (D) the elements to be evaluated during
9 performance reviews of appointed counsel to de-
10 termine whether they complied with their duty
11 to provide representation under such section
12 292;

13 (E) how to provide adequate representation
14 of clients whose cases present conflicts of inter-
15 est; and

16 (F) ensuring continued representation in
17 circumstances in which clients move or are
18 transferred, or where cases are transferred or
19 change venue;

20 (8) evaluate plans submitted by Local Boards
21 for the provision of representation of individuals be-
22 fore U.S. Citizenship and Immigration Services in
23 matters described in section 292 of the Immigration
24 and Nationality Act, after taking into account the
25 ability of such plans to provide such representation,

1 and approve such plans if they meet applicable legal
2 requirements of law and are consistent with the poli-
3 cies of the Office;

4 (9) review the implementation of plans ap-
5 proved by the Board not less frequently than once
6 every 4 years to ensure that each Local Board com-
7 plies with the plan approved by the Board;

8 (10) establish policies and procedures with re-
9 spect to compensation rates and reimbursement of
10 reasonable expenses for appointed counsel under
11 such section 292 and others providing services re-
12 lated to such representation;

13 (11) establish procedures to obtain investiga-
14 tors, experts, interpreters, and other providers of de-
15 fense services necessary for effective representation
16 of individuals who are entitled to counsel under such
17 section 292;

18 (12) establish procedures for the reimbursement
19 of reasonable expenses of attorneys, investigators,
20 experts, interpreters, and other persons providing
21 representation and related services under such sec-
22 tion 292;

23 (13) approve staffing levels and budgets for Im-
24 migration Public Defender Organizations;

1 (14) approve staffing levels and budgets for the
2 Office; and

3 (15) establish a mechanism for the submission,
4 review, resolution, and reporting of complaints from
5 individuals entitled to counsel under such section
6 292 regarding such representation.

7 (1) POWERS OF THE BOARD.—The Board is author-
8 ized—

9 (1) to delegate any of its duties, in whole or in
10 part, to the Director, except for the duties described
11 in paragraphs (1), (7), (13) and (14) of subsection
12 (k);

13 (2) to alter or revoke any such delegation to the
14 Director;

15 (3) to provide to Congress information regard-
16 ing the immigration system that the Board considers
17 relevant to the purpose of the Office;

18 (4) to authorize studies or reports that relate to
19 the purpose of the Office;

20 (5) to combine Local Boards or divide an area
21 served by a Local Board if the Board determines
22 that such action is necessary to carry out the pur-
23 poses of this section;

24 (6) to remove, by a vote of at least 13 mem-
25 bers, a member or members of a Local Board for

1 malfeasance in office, persistent neglect of or inabil-
2 ity to discharge duties, or conduct unbecoming of a
3 member of the Local Board;

4 (7) to seek, accept, and use public grants, pri-
5 vate contributions, and voluntary and uncompen-
6 sated (gratuitous services) to assist the Board in
7 carrying out the purposes of this Act and other serv-
8 ices related to such purposes; and

9 (8) to take any other action that is reasonably
10 necessary and not inconsistent with the Act to carry
11 out the purposes of this Act.

12 **SEC. 204. DIRECTOR.**

13 (a) REQUIREMENTS.—The Director of the Office—

14 (1) shall be a licensed attorney in good standing
15 in any United States jurisdiction at the time of his
16 or her appointment and at all times during his or
17 her service as the Director;

18 (2) shall be experienced in representing people
19 in proceedings described in section 292 of the Immi-
20 gration and Nationality Act, as amended by section
21 101 of this Act; and

22 (3) may not be a member of the Board.

23 (b) DUTIES.—The Director shall—

24 (1) appoint and fix the compensation of employ-
25 ees of the Office;

1 (2) establish a personnel management system
2 for the Office that provides for the appointment,
3 pay, promotion, and assignment of all employees on
4 the basis of merit, but without regard to the provi-
5 sions of subchapter I of chapter 33 of title 5, United
6 States, Code (relating to appointments in the com-
7 petitive service) or the provisions of chapter 51 and
8 subchapter III of chapter 53 of such title (relating
9 to classification and General Schedule pay rates);

10 (3) employ such personnel as may be necessary
11 to advance the purposes of the Office, subject to
12 staffing and budget approval of the Board;

13 (4) provide an annual report to the Board re-
14 garding the activities of the Office;

15 (5) provide such periodic reports and work
16 product to the Board sufficient for the Board to ful-
17 fill its duties under section 203(k);

18 (6) allocate and disburse funds appropriated for
19 legal representation and related services in cases
20 subject to this Act pursuant to rules and procedures
21 established by the Board;

22 (7) enter into contracts to provide or receive
23 services with any public or private agency, group, or
24 individual;

1 (8) appoint a Local Administrator for each re-
2 gion to administer and approve, subject to the poli-
3 cies established by the Board, the payment of funds
4 necessary for Panel Attorney representation, includ-
5 ing Panel Attorney compensation, investigators, ex-
6 perts, and other providers of representation services,
7 and any other necessary expenses for effective rep-
8 resentation;

9 (9) assist the Board in developing rules and
10 standards for the delivery of services under this Act;

11 (10) coordinate the services funded by the Of-
12 fice with any Federal, state, county, local, or private
13 programs established to provide legal assistance to
14 persons in cases subject to this Act who are unable
15 to afford representation;

16 (11) consult with professional bodies concerning
17 improving the administration of legal representation
18 for persons in proceedings described in section 292
19 of the Immigration and Nationality Act, as amended
20 by section 101 of this Act; and

21 (12) perform such other duties as may be as-
22 signed by the Board.

1 **SEC. 205. EMPLOYEES.**

2 (a) IN GENERAL.—Employees of the Office shall be
3 treated as employees of the Federal Government solely for
4 purposes of—

5 (1) subchapter 1 of chapter 81 of title 5,
6 United States Code (relating to compensation for
7 work injuries);

8 (2) chapter 83 of such title 5 (relating to retire-
9 ment);

10 (3) chapter 84 of such title 5 (relating to the
11 Federal Employees' Retirement System);

12 (4) chapter 87 of such title 5 (relating to life
13 insurance); and

14 (5) chapter 89 of such title 5 (relating to health
15 insurance).

16 (b) EMPLOYER CONTRIBUTIONS.—The Office shall
17 make contributions on behalf of employees of the Office
18 under the provisions referred to in subsection (a) at the
19 same rates applicable to employees of agencies of the Fed-
20 eral Government.

21 (c) THRIFT SAVINGS PLAN.—Employees of the Office
22 may make an election under section 8351 or 8432 of title
23 5, United States Code, to participate in the Thrift Savings
24 Plan for Federal employees.

1 **SEC. 206. LOCAL IMMIGRATION REPRESENTATION BOARDS.**

2 (a) ESTABLISHMENT.—Not later than 6 months after
3 the establishment of the Board, the Office shall delineate
4 administrative regions throughout the United States and
5 establish a local immigration representation board for
6 each region.

7 (b) COMPOSITION OF LOCAL BOARDS.—

8 (1) IN GENERAL.—Subject to subsection (c),
9 each Local Board shall consist of not fewer than 5
10 members and not greater than 15 members, who
11 shall initially be selected by the Board after con-
12 sultation with stakeholders in the Local Board’s re-
13 gion, including immigration legal service providers,
14 community-based organizations, and people who are
15 or have been subject to proceedings described in sec-
16 tion 292 of the Immigration and Nationality Act, as
17 amended by section 101.

18 (2) ATTORNEYS.—Not fewer than 50 percent of
19 the members of the Local Board selected pursuant
20 to paragraph (1) shall be—

21 (A) licensed attorneys with experience in
22 the practice of removal defense; or

23 (B) employees of community-based organi-
24 zations providing services to immigrants.

25 (3) SUBSEQUENT MEMBERS.—After the initial
26 members are selected pursuant to paragraph (1),

1 each Local Board shall select its own members in
2 accordance with bylaws that have been approved by
3 the Office.

4 (c) QUALIFICATION OF MEMBERS.—

5 (1) EXPERIENCE; COMMITMENT.—Members of
6 a Local Board shall have—

7 (A) significant experience defending cases
8 described in section 292 of the Immigration and
9 Nationality Act, as amended by section 101;
10 and

11 (B) demonstrated a strong commitment to
12 representation in indigent defense matters.

13 (2) DIVERSITY.—The composition of each Local
14 Boards shall reflect the diversity of the population
15 that counsel appointed pursuant to such section 292
16 are responsible for representing, including diversity
17 of race, gender identity, sexual orientation, immigra-
18 tion experience, and socioeconomic background.

19 (3) RESTRICTIONS.—A member of a Local
20 Board may not—

21 (A) be an employee of an Immigration
22 Public Defender Organization or Community
23 Defender Organization with a contract to pro-
24 vide representation under such section 292;

1 (B) be a member of an Attorney Panel re-
2 ferred to in section 207(d);

3 (C) be a judicial officer of the United
4 States or of a State, territory, district, posses-
5 sion, or commonwealth of the United States;

6 (D) be employed as a prosecutor, a law en-
7 forcement official, or a judicial official, or by a
8 prosecutorial or law enforcement agency; or

9 (E) have held a position described in sub-
10 paragraph (D) during the 3-year period imme-
11 diately preceding his or her appointment to the
12 Board.

13 (d) TERM OF MEMBERS OF A LOCAL BOARD.—

14 (1) IN GENERAL.—Members of a Local Board
15 shall serve 4-year terms, except that the terms of
16 the initial members shall be staggered so that the
17 term of not more than 50 percent of the members
18 expire during any calendar year.

19 (2) MAXIMUM LENGTH OF SERVICE.—A person
20 may not serve for more than 9 years on a Local
21 Board.

22 (3) REPLACEMENT MEMBERS.—A person who
23 is appointed to replace a member who has resigned
24 or was removed shall serve the remainder of the
25 term of such departing person.

1 (e) COMPENSATION OF MEMBERS OF A LOCAL
2 BOARD.—

3 (1) IN GENERAL.—Members of any Local
4 Board shall be paid for their service at the daily rate
5 at which judges of the United States courts of ap-
6 peals are compensated, but may not be paid for
7 more than 90 days of such service in any calendar
8 year.

9 (2) TRAVEL EXPENSES.—Members of any Local
10 Board shall receive travel expenses, including per
11 diem in lieu of subsistence, in accordance with appli-
12 cable provisions under subchapter I of chapter 57 of
13 title 5, United States Code.

14 (f) CHAIR OF LOCAL BOARD.—Each Local Board
15 shall elect a member of the Local Board to serve as chair
16 for 2 years, which term shall begin on the date of election.
17 Such chair may be reelected to extend such service for an
18 additional 2-year term.

19 (g) REMOVAL OF MEMBER OF LOCAL BOARD.—Each
20 Local Board, by a majority vote of the full membership,
21 may remove a member from the Local Board for—

22 (1) malfeasance in office;

23 (2) persistent neglect of, or inability to dis-
24 charge, Local Board duties; or

1 (3) conduct unbecoming of a member of the
2 Local Board.

3 (h) QUORUM OF LOCAL BOARD.—A majority of the
4 full membership of the Local Board shall constitute a
5 quorum for the purpose of conducting business.

6 (i) LOCAL BOARD GOVERNANCE.—Each Local Board
7 shall adopt bylaws governing the operation of the Local
8 Board, which may include provisions authorizing other of-
9 ficers of the Local Board and proxy voting.

10 (j) DISSOLUTION OF LOCAL BOARDS.—The Board,
11 upon a $\frac{2}{3}$ vote, may dissolve a Local Board for good
12 cause. Upon dissolution, the Office shall ensure that a new
13 Local Board is established not later than 90 days of dis-
14 solution. The new members of the Local Board shall be
15 selected by the majority votes of the Immigration Public
16 Defenders and the Panel Attorney representatives of the
17 district or districts to be served and the Director.

18 (k) DUTIES OF LOCAL BOARDS.—

19 (1) LOCAL PLANS.—

20 (A) IN GENERAL.—Each Local Board—

21 (i) not later than 120 days after the
22 Local Board is established, shall develop
23 and submit to the Office for approval a
24 Local Plan for the provision of representa-

1 tion services for the region served by the
2 Local Board;

3 (ii) shall implement the Local Plan
4 after it has been approved by the Office;

5 (iii) may modify the Local Plan at
6 any time, subject to the approval of the
7 Office; and

8 (iv) shall modify the Local Plan if so
9 directed by the Office.

10 (B) COMPONENTS; DEVELOPMENT.—Each
11 Local Plan developed pursuant to subparagraph
12 (A)—

13 (i) shall provide for the appointment
14 of counsel in a timely manner in accord-
15 ance with this Act;

16 (ii) shall be developed in consultation
17 with U.S. Citizenship and Immigration
18 Services to ensure that it adequately en-
19 compasses proceedings described in section
20 292 of the Immigration and Nationality
21 Act that are within the jurisdiction of U.S.
22 Citizenship and Immigration Services;

23 (iii) shall consider the existence of any
24 State, county, or locally funded programs

1 providing representation to people in pro-
2 ceedings described in such section 292;

3 (iv) may provide grants or reimburse-
4 ments to jurisdictions with programs de-
5 scribed in clause (iii) that provide rep-
6 resentation that furthers the purposes of
7 this Act;

8 (v) shall prioritize such grants or re-
9 imbursements for State, county, and lo-
10 cally funded programs that provide rep-
11 resentation to people involved in a pro-
12 ceeding described in such section 292 with-
13 out regard to any past interaction with the
14 immigration or criminal legal systems;

15 (vi) may, in accordance with section
16 207—

17 (I) establish 1 or more Immigra-
18 tion Public Defender Organizations;
19 and

20 (II) contract with 1 or more
21 Community Defender Organizations;

22 (vii) shall provide for the establish-
23 ment of a panel of private attorneys to
24 provide representation under such section

1 292, in accordance with section 207 of this
2 Act; and

3 (viii) shall provide a plan for holding
4 community engagement meetings that are
5 open to the public not less frequently than
6 twice during each fiscal year.

7 (C) LOCAL PLANS WITH BORDER-BASED
8 COMPONENTS.—

9 (i) IN GENERAL.—The Local Plan for
10 each region that is adjacent to the inter-
11 national border between the United States
12 and Mexico border shall provide for rep-
13 resentation to all people subject to a pro-
14 ceeding described in section 292 of the Im-
15 migration and Nationality Act, as amended
16 by section 101 of this Act.

17 (ii) IDENTIFYING COUNSEL.—The
18 Local Board of each region described in
19 clause (i) may utilize the entities specified
20 in section 207 and Attorney of the Day,
21 attorney fellowship, and other models—

22 (I) to provide limited representa-
23 tion to people in proceedings at the
24 border; and

1 (II) to coordinate case transfers
2 and referrals for legal representation
3 for people who are subsequently re-
4 leased from, or transferred within, the
5 custody of the Department of Home-
6 land Security or the Office of Refugee
7 Resettlement.

8 (2) APPOINTMENTS TO IMMIGRATION REP-
9 RESENTATION ADVISORY BOARD.—If a Local Plan
10 does not provide for the establishment of an Immi-
11 gration Public Defender Organization or contracting
12 with a Community Defender Organization in the re-
13 gion, the Local Board shall appoint representatives
14 to the Immigration Representation Advisory Board
15 established under section 210(a).

16 (3) LOCAL ADMINISTRATOR.—Each Local
17 Board shall appoint, subject to the approval of the
18 Office, a Local Administrator and such staff as may
19 be necessary to assist the Local Board in admin-
20 istering the selection and appointment of Panel At-
21 torneys.

22 (4) IMMIGRATION PUBLIC DEFENDER.—If a
23 Local Plan includes the establishment of 1 or more
24 Immigration Public Defender Organizations, the
25 Local Board shall—

1 (A) select 1 or more Immigration Public
2 Defenders, who shall serve in accordance with
3 section 207(b), for the region or a portion of
4 the region that will be served by the Local
5 Board;

6 (B) periodically evaluate the performance
7 of the Immigration Public Defender; and

8 (C) submit the results of the evaluations
9 required under subparagraph (B), as directed
10 by the Office.

11 (5) DUTIES OF LOCAL ADMINISTRATOR.—Each
12 Local Administrator shall—

13 (A) review, and certify for payment, all
14 vouchers received from Panel Attorneys to com-
15 pensate them for—

16 (i) their time spent representing cli-
17 ents appointed to them pursuant to section
18 292 of the Immigration and Nationality
19 Act, as amended by section 101 of this
20 Act; and

21 (ii) the costs of investigators, experts,
22 interpreters, and other providers of defense
23 services for work performed on behalf of
24 the Panel Attorneys and their clients;

1 (B) authorize reasonable expenditures for
2 transcripts and the services of paralegals and
3 other legal support personnel, to the extent nec-
4 essary;

5 (C) prepare, at the direction of the Office,
6 an annual budget for the provision of represen-
7 tation services under such section 292, except
8 for representation services provided by an Im-
9 migration Public Defender Office;

10 (D) implement procedures established by
11 the Office, permitting a Panel Attorney or other
12 representative appointed under such section
13 292 to appeal a decision of the Local Adminis-
14 trator concerning compensation or reimburse-
15 ment; and

16 (E) perform other duties related to the au-
17 thorization, payment, and budgeting of ex-
18 penses related to Panel Attorneys, as assigned
19 by the Director.

20 (6) REPRESENTATION OF FINANCIALLY ELIGI-
21 BLE PERSONS.—The Local Board shall establish
22 procedures for the appointment of counsel for any
23 person who—

1 (A) is subject to a proceeding described in
2 section 292 of the Immigration and Nationality
3 Act, as amended by section 101; and

4 (B) is financially unable to obtain high-
5 quality representation.

6 **SEC. 207. TYPES OF IMMIGRATION DEFENDERS.**

7 (a) IN GENERAL.—To ensure representation of all el-
8 igible persons in proceedings described in section 292 of
9 the Immigration and Nationality Act, as amended by sec-
10 tion 101, the Local Board may—

11 (1) establish 1 or more Immigration Public De-
12 fender Organizations in the region comprising the
13 Local Board’s jurisdiction;

14 (2) contract with existing Community Defender
15 Organizations; and

16 (3) establish a Panel Attorney system.

17 (b) IMMIGRATION PUBLIC DEFENDER.—

18 (1) IN GENERAL.—An Immigration Public De-
19 fender Organization shall consist of 1 or more full-
20 time salaried attorneys. Each Immigration Public
21 Defender Organization shall be supervised by an Im-
22 migration Public Defender appointed by the Local
23 Board that established the organization, subject to
24 the approval of the Office and without regard to the

1 provisions of title 5, United States Code, governing
2 appointments in the competitive service.

3 (2) REMOVAL.—

4 (A) IN GENERAL.—The Immigration Pub-
5 lic Defender shall serve at the pleasure of the
6 Local Board, but may be removed by the Direc-
7 tor for—

8 (i) malfeasance in office;

9 (ii) persistent neglect or inability to
10 discharge the duties of an Immigration
11 Public Defender; or

12 (iii) conduct unbecoming of a rep-
13 resentative of the Office.

14 (B) NONFACTORS FOR JUSTIFYING RE-
15 MOVAL.—The efforts and advocacy of an Immi-
16 gration Public Defender to ensure that the Of-
17 fice carries out its responsibilities under this
18 Act, including ensuring parity of resources, pro-
19 tecting counsel's duty to provide representation,
20 and ensuring manageable caseloads consistent
21 with that duty, may not serve as a basis for re-
22 moval or for initiating proceedings for removal
23 against the Immigration Public Defender.

24 (3) CONTINUED SERVICE UNTIL APPOINTMENT
25 OF SUCCESSOR.—Upon the expiration of the term of

1 service for which he or she was appointed, an Immi-
2 gration Public Defender may continue to perform
3 the duties of such office, in accordance with rules es-
4 tablished by the Local Board, until the earlier of—

5 (A) the date on which a successor is ap-
6 pointed; or

7 (B) the date that is 1 year after the expi-
8 ration of such term.

9 (4) COMPENSATION.—The compensation of
10 each Immigration Public Defender shall be fixed by
11 the Local Board at a rate that is comparable to—

12 (A) the rate of compensation received by
13 the Principal Legal Advisor of U.S. Immigra-
14 tion and Customs Enforcement who is prac-
15 ticing in the nearest court where representation
16 is furnished; or

17 (B) if more than 1 court is involved, the
18 rate of compensation that is paid to the higher
19 paid Principal Legal Advisor in such courts.

20 (5) ADDITIONAL PERSONNEL.—

21 (A) APPOINTMENTS.—The Immigration
22 Public Defender may appoint, without regard to
23 the provisions of title 5, United States Code,
24 governing appointments in the competitive serv-
25 ice, full-time attorneys in such number as may

1 be approved by the Office and other personnel
2 in such number as may be approved.

3 (B) COMPENSATION.—Compensation paid
4 to the attorneys and other personnel approved
5 by the Office pursuant to subparagraph (A)
6 shall be fixed by the Immigration Public De-
7 fender at a rate that is comparable to—

8 (i) the rate of compensation that is
9 paid to attorneys and other personnel of
10 similar qualifications and experience in the
11 Office of the Principal Legal Advisor in
12 the nearest court where representation is
13 furnished; or

14 (ii) if more than 1 court is involved,
15 the rate of compensation that is paid to
16 the higher paid person of similar qualifica-
17 tions and experience in such courts.

18 (6) TREATMENT AS FEDERAL GOVERNMENT
19 EMPLOYEES.—Employees of an Immigration Public
20 Defender Organization shall be treated as employees
21 of the Federal Government solely for purposes of—

22 (A) subchapter 1 of chapter 81 of title 5,
23 United States Code (relating to compensation
24 for work injuries);

1 (B) chapter 83 of such title 5 (relating to
2 retirement);

3 (C) chapter 84 of such title 5 (relating to
4 the Federal Employees' Retirement System);

5 (D) chapter 87 of such title 5 (relating to
6 life insurance); and

7 (E) chapter 89 of such title 5 (relating to
8 health insurance).

9 (7) RESTRICTION.—An Immigration Public De-
10 fender and any attorney appointed to serve in an
11 Immigration Public Defender Organization is pro-
12 hibited from engaging in the private practice of law.

13 (8) LIMITED LIABILITY.—The Office, to the ex-
14 tent the Director considers appropriate, shall provide
15 representation for and hold harmless, or provide li-
16 ability insurance for, any person who is an officer or
17 employee of an Immigration Public Defender Orga-
18 nization.

19 (9) REPORTS.—Each Immigration Public De-
20 fender Organization shall submit periodic reports of
21 its activities and financial positions and its proposed
22 budget to the Local Board at the times and in the
23 form prescribed by the Local Board.

24 (c) COMMUNITY DEFENDER ORGANIZATIONS.—

1 (1) IN GENERAL.—A Community Defender Or-
2 ganization shall be a nonprofit legal representation
3 service established and administered by any group
4 authorized by the Local Plan to provide representa-
5 tion to individuals subject to proceedings described
6 in section 292 of the Immigration and Nationality
7 Act, as amended by section 101.

8 (2) ANNUAL REPORT.—Each Community De-
9 fender Organization shall submit an annual report
10 to the Local Board that sets forth its activities dur-
11 ing the previous fiscal year and the anticipated case-
12 load and expenses for the upcoming fiscal year.

13 (d) ATTORNEY PANEL.—Each Local Plan developed
14 pursuant to section 206(k)(1) shall provide for—

15 (1) the appointment of qualified private attor-
16 neys from an Attorney Panel within the region;

17 (2) the implementation of standards established
18 by the Office setting forth the minimum qualifica-
19 tions for Panel Attorneys; and

20 (3) the establishment of a system to ensure
21 that—

22 (A) the number of attorneys on each Attor-
23 ney Panel is limited to provide each attorney
24 with sufficient appointments to maintain con-

1 continuing familiarity with immigration law and
2 procedure;

3 (B) there is early entry of counsel, includ-
4 ing representation as soon as possible in all
5 proceedings described in section 292 of the Im-
6 migration and Nationality Act, as amended by
7 section 101;

8 (C) there are adequate support services,
9 including training and technical support, for
10 members of each Attorney Panel for every area
11 in the region;

12 (D) conflicts of interests are avoided; and

13 (E) there is equal employment opportunity
14 for the employees of Immigration Public De-
15 fender Organizations and Panel Attorneys.

16 **SEC. 208. COMPENSATION AND REIMBURSEMENT OF EX-**
17 **PENSES OF COUNSEL.**

18 (a) IN GENERAL.—The Office shall establish the ap-
19 propriate hourly rates and salaries to be paid to counsel
20 appointed under each Local Plan, which—

21 (1) shall be established at levels that will ensure
22 the provision of high-quality legal representation for
23 all people represented in proceedings described in
24 section 292 of the Immigration and Nationality Act,
25 as amended by section 101; and

1 (2) shall be calculated to provide appointed
2 counsel with compensation that is comparable to the
3 compensation paid to—

4 (A) attorneys who are employed by the Of-
5 fice of the Principal Legal Advisor of U.S. Im-
6 migration and Customs Enforcement nearest to
7 the forum in which such counsel is providing
8 representation;

9 (B) attorneys employed by the cor-
10 responding Federal prosecutor's office; or

11 (C) any other attorney representing the
12 Government in connection with proceedings that
13 are comparable to proceedings described in such
14 section 292.

15 (b) **USE OF BILLING CAPS.**—If the Office places caps
16 on total billing for legal representation, the Office shall
17 establish policies and procedures for counsel to request au-
18 thorization to exceed such caps to the extent required to
19 ensure effective representation.

20 (c) **FEEES; ADDITIONAL COMPENSATION.**—The Office
21 shall establish—

22 (1) distinct fees to apply to counsel providing
23 services in proceedings that fall within the geo-
24 graphic jurisdiction of each of the United States
25 courts of appeal within each region delineated by the

1 Office pursuant to section 206(a), after taking into
2 account the prevailing wage rates for qualified attor-
3 neys within the geographic area in which representa-
4 tion will be provided under section 292 of the Immig-
5 ration and Nationality Act, as amended by section
6 101; and

7 (2) additional compensation to be paid to coun-
8 sel who provide representation under such section
9 292 to individuals in remote and underserved areas,
10 after taking into account the distance from the place
11 of business of such counsel to—

12 (A) the immigration courts;

13 (B) Department of Homeland Security and
14 Department of Health and Human Services fa-
15 cilities; and

16 (C) other relevant sites where such rep-
17 resentation is expected to be provided.

18 (d) REIMBURSEMENT FOR EXPENSES; SALARY IN-
19 CREASES.—

20 (1) REIMBURSEMENTS.—Counsel providing rep-
21 resentation under section 292 of the Immigration
22 and Nationality Act, as amended by section 101,
23 shall be reimbursed by the Department of Homeland
24 Security for expenses reasonably incurred in the
25 course of such representation, including the costs of

1 transcripts, but may not be reimbursed by the Fed-
2 eral Government for expenses related to defending
3 against malpractice claims.

4 (2) SALARY INCREASES.—The Office shall es-
5 tablish policies and procedures governing increases
6 in hourly rates, salaries, and fees initially deter-
7 mined under subsection (a) or (c).

8 (e) PAYMENTS IN EXCESS OF ESTABLISHED FEES.—
9 The Office shall establish policies and procedures for re-
10 questing and approving payments in excess of the fees es-
11 tablished under subsection (c) for extended or complex
12 representation if such excess payments are necessary to
13 provide fair compensation for the counsel providing such
14 representation.

15 **SEC. 209. SERVICES OTHER THAN COUNSEL.**

16 (a) SERVICES TO BE PREAPPROVED BY THE LOCAL
17 BOARD.—

18 (1) IN GENERAL.—Counsel appointed to rep-
19 resent individuals in proceedings described in section
20 292 of the Immigration and Nationality Act, as
21 amended by section 101, may request approval from
22 the Local Board for investigative, expert, or other
23 services necessary for such representation pursuant
24 to procedures established by the Board, including
25 services necessary to develop release plans and pro-

1 vide post-release services for people in the custody of
2 the Department of Homeland Security or the Office
3 of Refugee Resettlement.

4 (2) EXAMPLES OF SERVICES.—Services subject
5 to preapproval under paragraph (1) may include—

6 (A) the retention of specialized counsel in
7 connection with ancillary matters appropriate to
8 such proceedings;

9 (B) services and support related to mental
10 health, housing, addiction, food, travel, and ac-
11 companiment to immigration court proceedings;

12 (C) copying or obtaining discovery mate-
13 rials that are in the possession, custody, or con-
14 trol of the Government; or

15 (D) any other services required to ensure
16 effective representation or the interests of jus-
17 tice.

18 (b) SERVICES TO BE APPROVED BY THE LOCAL
19 BOARD AFTER THE FACT.—

20 (1) IN GENERAL.—Counsel appointed to rep-
21 resent individuals in proceedings described in section
22 292 of the Immigration and Nationality Act, as
23 amended by section 101, may obtain, without prior
24 authorization, but subject to later review by the

1 Local Board, investigative, expert, and other services
2 if necessary for representation.

3 (2) PAYMENT.—In the interests of justice and
4 upon a determination by the Local Board that time-
5 ly procurement of certain necessary services could
6 not await prior authorization, payment for such
7 services may be approved by the Local Board after
8 they have been obtained.

9 (c) AMOUNT OF COMPENSATION.—In determining
10 the appropriate compensation for services other than
11 counsel, the Office shall ensure that such compensation
12 is comparable to the compensation paid to the Government
13 for substantially similar services.

14 (d) POLICIES AND PROCEDURES.—The Office shall
15 establish policies and procedures that—

16 (1) identify the circumstances under which—

17 (A) payment shall be made for services
18 other than counsel; and

19 (B) prior authorization for certain nec-
20 essary services is not required; and

21 (2) permit counsel appointed to represent indi-
22 viduals in proceedings described in section 292 of
23 the Immigration and Nationality Act, as amended by
24 section 101, to seek increases in funding for such
25 services if counsel reasonably believes that the com-

1 pensation established by the Office pursuant to sub-
2 section (c) does not meet the parity requirement
3 under such subsection.

4 (e) FINANCIAL ELIGIBILITY DETERMINATIONS.—

5 (1) IN GENERAL.—Private counsel for any per-
6 son who is financially unable to obtain services other
7 than counsel necessary for representation, including
8 services described in subsections (a) and (b), may re-
9 quest that the Local Administrator make a deter-
10 mination of the financial eligibility for such person
11 to receive Government funding for such services.

12 (2) PAYMENT.—If the Local Administrator de-
13 termines that a person described in paragraph (1) is
14 financially unable to obtain necessary services other
15 than counsel, the Local Administrator shall author-
16 ize payment for such services pursuant to procedures
17 established by the Office.

18 **SEC. 210. IMMIGRATION REPRESENTATION ADVISORY**
19 **BOARD.**

20 (a) ESTABLISHMENT.—

21 (1) IN GENERAL.—Subject to paragraph (2),
22 there is established the Immigration Representation
23 Advisory Board, which shall consist of—

24 (A) 1 Immigration Public Defender rep-
25 resentative from each region delineated pursu-

1 ant to section 206(a), who shall be selected by
2 the Immigration Public Defenders within each
3 such region;

4 (B) 1 Community Defender Organization
5 representative from each region delineated pur-
6 suant to section 206(a), who shall be selected
7 by the Community Defender Organizations
8 within each such region; and

9 (C) 1 Panel Attorney representative from
10 within the jurisdiction of each Federal circuit
11 court of appeals, who shall be selected by the
12 Panel Attorneys within each such circuit.

13 (2) ALTERNATIVE SELECTION PROCESS.—

14 (A) NO IMMIGRATION PUBLIC DEFENDER
15 OFFICE.—If a Local Plan does not provide for
16 the establishment of an Immigration Public De-
17 fender Office, the relevant Local Board shall
18 appoint 2 Community Defender Organization
19 representatives to serve on the Immigration
20 Representation Advisory Board.

21 (B) NO COMMUNITY DEFENDER ORGANIZA-
22 TION.—If a Local Plan does not provide for a
23 contract with a Community Defender Organiza-
24 tion, the relevant Local Board shall appoint 2
25 Immigration Public Defender Representatives

1 to serve on the Immigration Representation Ad-
2 visory Board.

3 (b) TERM OF SERVICE.—

4 (1) IN GENERAL.—Members of the Immigration
5 Representation Advisory Board shall serve 2-year
6 terms, except that the terms of 50 percent of the ini-
7 tial members appointed pursuant to subsection (a)
8 shall be 1 year.

9 (2) MAXIMUM CONSECUTIVE SERVICE.—No
10 member may serve on the Immigration Representa-
11 tion Advisory Board for more than 6 consecutive
12 years.

13 (3) PARTIAL TERM APPOINTMENTS.—If a mem-
14 ber of the Immigration Representation Advisory
15 Board does not serve until the end of his or her
16 term due to resignation or removal, the person ap-
17 pointed to replace such member shall serve for the
18 remainder of such term.

19 (c) COMPENSATION.—Members of the Immigration
20 Representation Advisory Board shall serve without com-
21 pensation, but shall be reimbursed for all actual and nec-
22 essary expenses reasonably incurred in the performance of
23 their duties as members of the Immigration Representa-
24 tion Advisory Board.

1 (d) GOVERNANCE; MEETINGS.—The Immigration
2 Representation Advisory Board shall—

3 (1) establish bylaws;

4 (2) select a chairperson from among its mem-
5 bers;

6 (3) appoint other such officers as it deems nec-
7 essary; and

8 (4) meet not less frequently than once each
9 year.

10 **TITLE III—AUTHORIZATION OF** 11 **APPROPRIATIONS**

12 **SEC. 301. AUTHORIZATION OF APPROPRIATIONS.**

13 (a) IN GENERAL.—There are authorized to be appro-
14 priated to the Office of Immigration Representation, out
15 of any money in the Treasury that is not otherwise appro-
16 priated, such sums as may be necessary to carry out this
17 Act, and the amendments made by this Act, including—

18 (1) establishing and operating the Office; and

19 (2) providing continuing education and training
20 of counsel providing representation under section
21 292 of the Immigration and Nationality Act, as
22 amended by section 101.

23 (b) AVAILABILITY OF FUNDS.—If so specified in ap-
24 propriation Acts, amounts appropriated pursuant to sub-
25 section (a) shall remain available until expended. Pay-

1 ments from such appropriations shall be made under the
2 supervision of the Director of the Office of Immigration
3 Representation.

4 **SEC. 302. MINIMUM FUNDING FOR THE OFFICE OF IMMI-**
5 **GRATION REPRESENTATION.**

6 (a) IN GENERAL.—The amount appropriated to the
7 Office of Immigration Representation for each fiscal year
8 shall be not less than the amount equal to the sum of
9 the combined amount appropriated for Federal immigra-
10 tion enforcement and prosecution agencies and the Office,
11 multiplied by the “prosecution-defense” ratio calculated
12 pursuant to subsection (b).

13 (b) CALCULATION OF PROSECUTION-DEFENSE
14 RATIO.—

15 (1) IN GENERAL.—Except as provided in para-
16 graph (2), the Office of Management and Budget
17 shall calculate the prosecution-defense ratio, for pur-
18 poses of subsection (a), by dividing the sum appro-
19 priated to the Office of Immigration Representation
20 account for the most recently concluded fiscal year
21 by the combined amount appropriated for such fiscal
22 year for Federal immigration enforcement and pros-
23 ecution agencies, including amounts appropriated
24 for—

1 (A) U.S. Immigration and Customs En-
2 forcement;

3 (B) U.S. Customs and Border Protection;
4 and

5 (C) the Office of Immigration Litigation of
6 the Department of Justice.

7 (2) EFFECT OF SHIFTING PROSECUTORIAL
8 FUNCTIONS.—If the law enforcement or prosecu-
9 torial functions of the agencies or offices referred to
10 in subparagraphs (A) through (C) of paragraph (1)
11 on the date of the enactment of this Act are per-
12 formed by different agencies or offices in a future
13 fiscal year, the Office of Management and Budget
14 shall use the amount appropriated for those func-
15 tions in calculating the prosecution-defense ratio
16 under paragraph (1).

