

**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.—Representa-  
2           tion 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) FEES; 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 Immi-  
5 gration 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).

