
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anna Caballero, Chair
2025 - 2026 Regular Session

AB 1261 (Bonta) - Immigration: unaccompanied undocumented minors: right to legal counsel

Version: April 23, 2025

Policy Vote: JUD. 12 - 1, HUMAN S. 4 - 0

Urgency: No

Mandate: No

Hearing Date: August 18, 2025

Consultant: Liah Burnley

Bill Summary: AB 1261 requires the state to provide legal counsel to unaccompanied undocumented minors, as specified.

Fiscal Impact: The California Department of Social Services (CDSS) reports that the Office of Refugee Resettlement (ORR) data demonstrates a significant increase between 2014 and 2023 in UUMs released to sponsors in California. On the higher end, in Federal Fiscal Year (FFY) 2021-22, 13,730 unaccompanied undocumented minors were released to sponsors in California and in FFY 2022-23, 11,121 UUMs were released in CA. More recently, from October 1, 2024, as of May 31, 2025, there have only been 2,570 youth released, which closely mirrors the trends observed in FFY 2019-20. With this data context and the current bill language requiring legal assistance for every youth, CDSS's projections range from \$17,500,000 to \$77,000,000. These projections are based on its current pay scale for Youth Legal Services. CDSS only has \$2.9 million funded for these youth on an ongoing basis through CA state budget acts. The actual funding required would change from year to year based on the number of ORR youth in custody.

CDSS also notes that it would request to convert three positions 1 SSM I, and 2 AGPAs who manage the CDSS youth legal services grants to budget authorized positions from blanket positions. \$563,000 (GF) ongoing annual funding would be needed to support 3.0 positions to handle the associated workload. Since the 3.0 positions requested are existing blanket positions, one-time costs are excluded.

Background: Continuing its vitriol towards immigrants, the Trump Administration has attempted to roll back the rights of unaccompanied children. On February 18, 2025, the U.S. Department of Health and Human Services (HHS) suddenly told nonprofit legal organizations nationwide that they were no longer allowed to proceed with offering legal education, legal consultations, or legal representation for unaccompanied children through a stop-work order. The termination of federal funding for legal representation for unaccompanied children will significantly increase the gaps in funding for legal services and legal service providers resulting in funding and staffing shortfalls. Trump's "big, beautiful bill" gives ice unprecedented funding for mass deportations.

In July 2025, the California Attorney and a coalition of 20 attorneys general filed an amicus brief in *Community Legal Services in East Palo Alto, et al. vs. United*

States Department of Health and Human Services, et al.,¹ in support of a challenge to the Trump Administration's abrupt termination of funding for legal services for unaccompanied immigrant children. In their brief, the attorneys general urge the Ninth Circuit Court of Appeals to affirm the preliminary injunction issued by the district court, arguing that the Trump Administration's termination of federal funding for legal representation undermines the efforts of Amici States' in ensuring the safety of unaccompanied children. A more stable funding source would ensure that children in this state are not deprived of their constitutional right to due process.

According to the Attorney General, in fiscal year 2024, approximately 10,800 unaccompanied children were released to sponsors in California — 11 percent of all unaccompanied children released to sponsors that year and the second-highest number of released children after Texas. These children become important members of their communities, students in their schools, and eventually, parents of their own families. Forcing these children to spend prolonged time in federal custody will make it more difficult for them to thrive in their communities upon release. A robust body of research shows that prolonged time in immigration custody is particularly harmful for children's physical and mental health and disrupts their development.

Federal law, 8 U.S.C. § 1232(c)(5), recognizes, unaccompanied children are a particularly vulnerable population at risk for abuse, trafficking, and exploitation, and legal representation plays an important role in protecting them from mistreatment. However, currently, there is no federal or state law that guarantees the right to government-appointed legal counsel for unaccompanied minors in immigration proceedings.

Proposed Law:

- Requires the state to provide legal counsel to each unaccompanied undocumented minor in the physical custody of the federal Office of Refugee Resettlement and present in California or residing with a family member or other sponsor in California.
- Provides that the right to counsel conferred shall apply as follows:
 - The right to counsel begins at the time an unaccompanied undocumented minor is issued a notice to appear and has been placed in immigration removal proceedings;
 - The right to counsel applies in state court proceedings for purposes of obtaining any order necessary for or relevant to immigration remedies, federal immigration proceedings, any related appearances or matters before the

¹ <https://oag.ca.gov/system/files/attachments/press-docs/UAC%20Counsel%20Multistate%20Amicus%20Brief.pdf>

- United States Department of Homeland Security, and any appeals arising from those proceedings;
- The right to counsel applies unless the unaccompanied undocumented minor has retained counsel independently; and,
 - The right to counsel applies to a child who has been designated an unaccompanied undocumented minor at any time throughout the pendency of any of these proceedings.
- Requires CDSS to contract to fulfill these obligations with either a qualified nonprofit legal services organization or an office of public defender for the county, if the public defender has an immigration unit that meets specified requirements.
 - Provides that an unaccompanied undocumented minor is any person who meets all of the following requirements:
 - Has no lawful immigration status in the United States;
 - Has not attained 18 years of age; and,
 - Has no parent or legal guardian in the United States, or no parent or legal guardian in the United States is available to provide care and physical custody.

-- END --