
THIRD READING

Bill No: AB 1261
Author: Bonta (D), et al.
Amended: 4/23/25 in Assembly
Vote: 21

SENATE JUDICIARY COMMITTEE: 12-1, 7/1/25
AYES: Umberg, Allen, Arreguín, Ashby, Caballero, Durazo, Laird, Stern,
Valladares, Wahab, Weber Pierson, Wiener
NOES: Niello

SENATE HUMAN SERVICES COMMITTEE: 4-0, 7/7/25
AYES: Arreguín, Becker, Durazo, Limón
NO VOTE RECORDED: Ochoa Bogh

SENATE APPROPRIATIONS COMMITTEE: 5-2, 8/29/25
AYES: Caballero, Cabaldon, Grayson, Richardson, Wahab
NOES: Seyarto, Dahle

ASSEMBLY FLOOR: 63-8, 6/3/25 - See last page for vote

SUBJECT: Immigration: unaccompanied undocumented minors: right to legal
counsel

SOURCE: Author

DIGEST: This bill 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, as specified. The bill additionally requires the Department of Social Services (DSS) to contract with qualified nonprofit legal services organizations that meet specified requirements or an office of public defender that meets specified requirements, including that the office has an immigration unit or contracts with an immigration attorney with at least 3 years of

experience and expertise in providing legal representation to clients in civil immigration matters before the United States Department of Homeland Security, to fulfill those requirements.

ANALYSIS:

Existing law:

- 1) Directs DSS, subject to the availability of funding from the annual Budget Act, to contract with qualified nonprofit legal services organizations to provide legal services to unaccompanied undocumented minors who are transferred to the care and custody of the federal Office of Refugee Resettlement and who are present in this state, for the sole purpose of providing legal representation to unaccompanied undocumented minors who are in the physical custody of the federal Office of Refugee Resettlement or who are residing with a family member or other sponsor. (Welfare and Institutions Code (Welf. and Inst. Code) § 13300 (a) & (b).)
- 2) Defines “legal services” to include culturally and linguistically appropriate services provided by attorneys, paralegals, interpreters and other support staff for state court proceedings, federal immigration proceedings, and any appeals arising from those proceedings. (Welf. and Inst. Code § 13300 (d).)
- 3) Requires that contracts awarded pursuant to 1) fulfill each of the following, among additional requirements, and may be executed only with nonprofit legal services organizations that meet all of the following requirements:
 - a) Have at least three years of experience handling asylum, T-Visa, U-Visa, or special immigrant juvenile status cases and have represented at least 25 individuals in these matters;
 - b) Have experience in representing individuals in removal proceedings and asylum applications;
 - c) Have conducted trainings on these issues for practitioners beyond their staff;
 - d) Have experience guiding and supervising the work of attorneys who themselves do not regularly participate in this area of the law but nevertheless work pro bono on the types of cases described in i).
 - e) Are accredited by the Board of Immigration Appeals under the United States Department of Justice’s Executive Office for Immigration Review or meet the requirements to receive funding from the Trust Fund Program administered by the State Bar of California. (Welf. and Inst. Code § 13301 (a).)

- 4) Provides immigration relief that relies on a state's interest in the welfare of children by providing for Special Immigrant Juvenile Status where a state determines that reunification with one or both of the immigrant's parents is not viable due to abuse, neglect, abandonment, or similar basis found under state law and that it would not be in the child's best interest to return to their home country. (Title 8 United States Code (U.S.C.) § 1101 (a)(27)(J).)
- 5) Establishes that the care and custody of unaccompanied minors is the responsibility of the Office of Refugee Resettlement in the Department of Health and Human Services instead of the Department of Homeland Security. (Homeland Security Act of 2002; P.L. 107-296, § 462.)
- 6) Defines a "special immigrant juvenile" as a person under 21 who is declared a dependent by a juvenile court or committed to the custody of a state agency or a court-appointed individual, whose reunification with one or both of their parents is not viable due to abuse, neglect, abandonment, or a similar basis found under state law, and whose return to their country of nationality or last habitual residence is not in their best interest. (8 U.S.C. § 1101(a)(27)(J).)
- 7) Allows such a person to obtain Special Immigrant Juvenile Status (SIJS) and, based on that, apply for a visa for lawful permanent residency. (8 U.S.C. § 1153(b)(4).)
- 8) Provides that the superior court, including a juvenile, probate, or family court department or division of the superior court, has jurisdiction to make judicial determinations regarding the custody and care of juveniles within the meaning of the federal Immigration and Nationality Act, and requires the superior court to make an order containing the necessary findings regarding SIJS pursuant to federal law, if there is evidence to support those findings. (Code of Civil Procedure (Code Civ. Proc.) § 155.)
- 9) Allows the court to appoint a guardian of the person, the estate, or both for a child under 18 years of age, taking into consideration the best interest of the proposed ward. Allows the court to appoint a guardian of the person for an unmarried individual who is 18 years or older, but who has not yet attained 21 years of age, in connection with a petition to make the necessary findings regarding SIJS pursuant to Code of Civil Procedure section 155 (b) if the proposed ward consents. (Probate Code (Prob. Code) §§ 1501 et seq.)

This bill:

- 1) Provides that the state shall 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.
- 2) Provides that the right to counsel conferred pursuant to this bill begins at the time an unaccompanied undocumented minor is issued a notice to appear and has been placed in immigration removal proceedings.
- 3) Provides that the right to counsel conferred pursuant to this bill 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 United States Department of Homeland Security, and any appeals arising from those proceedings.
- 4) Provides that the right to counsel conferred pursuant to this bill applies unless the unaccompanied undocumented minor has retained counsel independently.
- 5) Provides that the right to counsel conferred pursuant to this bill applies to a child who has been designated an unaccompanied undocumented minor at any time throughout the pendency of any of the proceedings identified in 3), above.
- 6) Provides that DSS shall contract to fulfill the obligation imposed pursuant to 1), above, with a qualified nonprofit legal services organization, as described in Section 13301 of the Welfare and Institutions Code, or an office of public defender for the county, as established pursuant to Section 27700 of the Government Code, if the public defender meets all of the following requirements:
 - a) the office has an immigration unit or contracts with an immigration attorney with at least three years of experience and expertise in providing legal representation to clients in civil immigration matters before the United States Department of Homeland Security;
 - b) the immigration unit or immigration attorney on contract supervises work completed pursuant to the contract to provide counsel for unaccompanied undocumented minors; and

- c) the attorneys within the office performing work pursuant to the contract to provide counsel for unaccompanied undocumented minors receive at least two trainings of two hours each on matters relating to asylum, T-visas, U-visas, or special immigrant juvenile status.
- 7) Defines an “unaccompanied undocumented minor” for purposes of this bill as any person who meets all of the following requirements:
- a) the person has no lawful immigration status in the United States;
 - b) the person has not attained 18 years of age; and
 - c) the person 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.
- 8) Provides that DSS shall require contractors pursuant to this bill to maintain adequate legal malpractice insurance as necessary and to indemnify and hold the state harmless from any claims that arise from the legal services provided pursuant to this bill.

Comments

According to the author:

Unaccompanied immigrant children in the U.S. currently have no right to legal counsel in immigration court, leaving them vulnerable to deportation and unable to access critical protections like Special Immigrant Juvenile Status (SIJS) and asylum. The legal processes for these protections are complex, and without an attorney, these children are at a severe disadvantage. In 2023, only 56% of unaccompanied children had legal representation, and the difference in outcomes is stark. A 2021 report revealed that 90% of unrepresented minors were ordered removed. Additionally, many children never even get the chance to present their case. In fiscal year 2023, 86% of removal orders were issued in absentia, often because children couldn't make it to court. Represented children, however, appeared in 95% of hearings. Recent actions by the federal administration, such as canceling a contract that provided legal services to 26,000 children and an ICE memo prioritizing unaccompanied children for detention, have heightened the need for children to have access to representation. California alone received over 10,800 unaccompanied minors in fiscal year 2024, underscoring the urgent need for a right to counsel. It is critical to provide legal representation to ensure these children

have a fair chance at justice. Access to counsel is not just a matter of legal fairness—it's a matter of basic human rights.

Special Immigrant Juvenile Status (SIJS), found in the Federal Immigration and Nationality Act, is a statutory tool enacted nearly three decades ago to benefit immigrant children and youth. SIJS involves both federal and state law. The federal statute and regulations provide the framework, and the state courts provide the details for each individual situation. Since 2014, the State of California has funded legal services for unaccompanied minors and the Legislature has passed several bills to ensure that the unaccompanied minors and youth are able to receive the predicate orders in state court that the minors and youth require to enable them to apply for SIJS. The federal government has also funded legal services for unaccompanied minors for a number of years. However, funding has been pulled by the federal Administration. Therefore fewer children and youth in California are provided legal immigration services at a time when the Trump Administration is pushing an anti-immigrant agenda.

This bill seeks to ensure that these children and youth are provided legal representation to help them navigate the complex state court and immigration system so that they may obtain the immigration relief to which they are entitled under federal immigration law. According to the Immigrant Legal Resource Center, a supporter of this bill, “[w]ithout legal assistance, these children cannot successfully navigate the immigration system even if their cases are strong, leading to their near-certain deportation. According to data collected by the Vera Institute of Justice, unaccompanied children with legal representation were more than seven times more likely than unrepresented unaccompanied children to receive an outcome that allowed them to remain in the United States. In that same study, Vera found that more than 90% of unrepresented unaccompanied children were issued an order of removal regardless of the strength of their immigration claims.”¹

AB 1261 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, as specified. The bill additionally requires DSS to contract with qualified nonprofit legal services organizations that meet specified requirements or an office of public defender that meets specified requirements.

¹ Vera Institute of Justice, Representation Matters (December 2021) available at: <https://www.vera.org/publications/representation-matters> [as of Aug 29, 2025].

The bill is a priority bill of the California Latino Legislative Caucus and is supported by numerous children rights organizations and organizations that support immigrant children and youth. According to the California Latino Legislative Caucus:

Many Latino and immigrant communities and their families face challenges related to language barriers, limited access to legal resources, and fear of deportation. This bill protects the rights of some of our youngest Californians by ensuring they have access to legal representation and that they are not left to fend for themselves. AB 1261 mandates that the California Department of Social Services contract with qualified nonprofit legal services organizations or public defenders to appoint counsel for unaccompanied minors who are in the physical custody of the federal Office of Refugee Resettlement and present in California or residing with a sponsor within the state.

As we continue to see families torn apart, California must do more to protect immigrant children, who through no fault of their own, find themselves in immigration proceedings.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: No

According to the Senate Appropriations Committee:

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.

SUPPORT: (Verified 8/29/25)

Alameda County Board of Supervisors
 California Alliance of Child and Family Services
 California Catholic Conference
 California Latino Legislative Caucus
 California Public Defenders Association
 City of Alameda
 City of Oakland
 City of Soledad
 Coalition to Abolish Slavery and Trafficking
 Democrats of Rossmoor
 First 5 California
 Immigrant Legal Resource Center
 Santa Barbara Women's Political Committee
 Secure Justice
 SEIU California

OPPOSITION: (Verified 8/29/25)

None received

ASSEMBLY FLOOR: 63-8, 6/3/25

AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Fariás, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Connolly, Elhawary, Fong, Gabriel, Garcia, Gipson, Jeff Gonzalez, Mark González, Haney, Harabedian, Hart, Irwin, Jackson, Kalra, Krell, Lee, Lowenthal, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Pellerin, Petrie-Norris, Quirk-Silva, Ramos, Ransom, Celeste Rodriguez, Michelle Rodriguez, Rogers, Blanca Rubio, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas

NOES: DeMaio, Dixon, Ellis, Gallagher, Lackey, Patterson, Sanchez, Tangipa

NO VOTE RECORDED: Castillo, Chen, Davies, Flora, Hadwick, Hoover, Macedo, Ta

Prepared by: Margie Estrada / JUD. / (916) 651-4113
8/30/25 16:23:07

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