

## CONCURRENCE IN SENATE AMENDMENTS

AB 1261 (Bonta)

As Amended September 5, 2025

Majority vote

**SUMMARY**

Requires the state to provide legal representation for unaccompanied undocumented minors in federal immigration proceedings, or related state proceedings, in California.

**Major Provisions**

- 1) *Subject to the availability of state funding, requires the state to provide legal counsel to every immigrant youth in the State of California.*
- 2) *Requires the department to allocate funding as specified. In determining the amount and allocation of contracts awarded, requires the department to consider whether federal funding has been made available and dispersed to organizations or relevant projects in the state. Requires the department to prioritize awards of contracts or grants to qualified nonprofit organizations as described in Welfare and Institutions Code Section 13301 that are ineligible for federal funds or that have unmet needs despite federal assistance.*
- 3) Specifies that *counsel is conferred* as follows:
  - a) *Access to counsel begins at the time an immigrant youth has been designated as unaccompanied by a federal or state agency or identified as such by an immigration attorney;*
  - b) *Access to counsel may apply in state court proceedings or submitting an affirmative filing for purposes of obtaining any order necessary for or relevant to immigration remedies, federal immigration proceedings, any related appearances or matters before the Department of Homeland Security, federal court, or the Department of Justice;*
  - c) *Access to counsel* does not need to be provided if the *immigrant youth* has independent counsel;
  - d) *Access to counsel* applies to a child who has been designated as an *immigrant youth* at any time throughout the pendency of any proceeding identified in this subdivision. *If an immigrant youth has been assigned counsel before the immigrant youth reaches 18 years of age, the immigrant youth remains eligible for ongoing access to counsel during the pendency of the proceedings.*
- 4) Requires the department to contract with qualified nonprofit legal services organizations as described in Section 13301 of the Welfare and Institutions Code or with an office of the public defender for the county as established pursuant to Section 27700 of the Government Code.
- 5) Requires contracts with an office of the public defender for the county to comply with all of the following:

- i) Has an immigration unit or contracts with an immigration attorney with at least three years' experience *handling asylum, T-Visa, U-Visa, or special immigrant juvenile status cases and has represented at least 20 minors in these matters.*
  - ii) *The office has an immigration attorney with experience representing minors in removal proceedings and asylum applications.*
  - iii) *The office has an immigration attorney who has conducted trainings on these issues for practitioners beyond their staff.*
- 6) *Authorizes the department to impose additional requirements for an office of public defender for the county to be eligible for a contract.*
  - 7) Defines an *immigrant youth as a person residing in, or formerly residing in, California, and is either of the following:*
    - a) *The person is an undocumented minor as described in Section 279(g)(2) of Title 6 of the United States Code.*
    - b) *The person is under 18 years of age, has no lawful immigration status, arrived in the United States without a parent or legal guardian, or has no parent or legal guardian available and able to assist in the youth's immigration proceedings.*
  - 8) Requires the department to require contractors pursuant to 3) 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 the section.
  - 9) *Authorizes the department to fund social work services contracted by qualified nonprofit legal service organizations to assist immigrant youth.*

### Senate Amendments

Incorporate clarifying amendments and specify methods for the Department to award grants.

### COMMENTS

Up until February of this year, the federal government had contracted with nonprofit organizations to fund legal representation of these minors in federal immigration proceedings. On February 18, 2025, the Trump administration suspended these contracts via executive order. The nonprofits covered by the order were given a stop-work order by the Department of Human Services, throwing the organizations and the children themselves into uncertainty. (Rebecca Santana, *Trump administration cuts legal help for migrant children traveling alone*, AP News (March 21, 2025) available at: <https://apnews.com/article/trump-legal-aid-unaccompanied-children-immigration-court-127a69ce69573d2d16c72a74dacef3ab>.) On April 2<sup>nd</sup>, a federal judge ordered the administration to reinstate the contracts until at least April 16<sup>th</sup>. (Associated Press via NPR, *Judge orders White House to restore legal aid to unaccompanied migrant children* (April 2, 2025).) It is not apparent whether the administration will continue, let alone renew, the contracts.

In addition to the federal administration's efforts to reel in support for legal resources for this population of children, California has also rolled back similar programs. The Children's Holistic

Immigration Representation Project was funded in 2022 through the state's budget act. The Project was a two-year pilot project that provided social and legal services to unaccompanied minors. Since 2022 it had provided funding for 16 organizations which in turn provided legal representation to more than 600 children. The Governor's initial 2025 – 2026 budget proposal did not include new allocations for the program. The state does implement other measures to provide legal resources to immigrants generally, including through funding of the One California program.

*Immigration court is unmanageable for adults, let alone children.* Despite the fact that immigration proceedings involve outcomes that are arguably as impactful, if not in some cases more so, than criminal proceedings, unlike in criminal proceedings, individuals in immigration proceedings are not guaranteed government-appointed attorney. For many unaccompanied minors the result is mind-bogglingly irrational – children and toddlers appearing before an immigration judge to attempt to advocate on their own behalf and avoid deportation.

Beyond providing a degree of human comfort to children facing a daunting legal system, providing legal representation also has a marked impact on these children's prospects of remaining in the United States. According to a report by the Vera Institute of Justice, more than 90 percent of unrepresented minors in immigration proceedings were ultimately either issued an order of removal or opted for voluntary departure. (Vera Institute of Justice, *Representation Matters* (December 2021) available at: <https://www.vera.org/publications/representation-matters>.) Between 2005 and 2017, only 64% of unrepresented minors had legal representation at any point during their proceedings. (*Id.*)

*This bill* creates an obligation for the state to provide legal representation to unaccompanied undocumented minors in the federal Office of Refugee Resettlement (ORR) custody or in the custody of a family member or sponsor in California. The obligation attaches at the time a minor is issued a notice to appear and is placed in immigration removal proceedings, and is limited to services necessary for or relevant to immigration proceedings or remedies, unless the minor has retained counsel independently. Finally, in order to meet the bill's obligations, the bill authorizes the Department of Social Services (DSS) to contract with qualified nonprofit legal services organizations or public defenders offices in order to meet, as specified.

Particularly in light of the notoriously dangerous conditions undocumented unaccompanied children endure in reaching the United States, it seems reasonable to attempt to ensure that those who have a legitimate basis for remaining in the U.S. are not deported to their home country, potentially forcing them to risk the journey yet again.

### **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 to 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.

### **Arguments in Support**

This measure is supported by the California Alliance of Child and Family Services, the California Catholic Conference, the California State Council of Service Employees International Union (SEIU), First 5 California, the California Latino Legislative Caucus, the California Public Defenders Association, the cities of Alameda, Oakland, and Soledad, the Coalition to Abolish Slavery and Trafficking (CAST), Democrats of Rossmore, the Santa Barbara Women's Political Committee, Secure Justice, and the Immigrant Legal Resource Center. In support of the bill, the California Catholic Conference submits:

Children attempting to seek protection alone in the U.S. face several specific challenges beginning with the perilous journey to reach the border in the first place. With no family members to support and protect them there is an extremely high risk of exploitation and abuse by human traffickers. The Congressional Research Service estimates that 75-80% of unaccompanied children arriving at the U.S.-Mexico border are victims of human trafficking.

In the U.S., asylum seekers, including unaccompanied children, are not guaranteed access to legal counsel. They are expected to represent themselves before immigration judges, despite being unable to comprehend the complex proceedings which may result in their return to violence or persecution. Many of these children who are forced to represent themselves are unsuccessful and can be deported. Those who manage to find lawyers win their cases about 88% of the time.

AB 1261 will allow unaccompanied children to obtain legal representation and in turn, they will be more likely to receive positive immigration court decisions and remain in the U.S.

### **Arguments in Opposition**

None on file

## **FISCAL COMMENTS**

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.

**VOTES:****ASM JUDICIARY: 9-2-1**

**YES:** Kalra, Bauer-Kahan, Bryan, Connolly, Harabedian, Pacheco, Lee, Stefani, Zbur

**NO:** Dixon, Sanchez

**ABS, ABST OR NV:** Macedo

**ASM APPROPRIATIONS: 11-2-2**

**YES:** Wicks, Arambula, Calderon, Caloza, Elhawary, Fong, Mark González, Hart, Pacheco, Pellerin, Solache

**NO:** Dixon, Tangipa

**ABS, ABST OR NV:** Sanchez, Ta

**ASSEMBLY FLOOR: 63-8-8**

**YES:** Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Arambula, Ávila Farías, 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

**NO:** DeMaio, Dixon, Ellis, Gallagher, Lackey, Patterson, Sanchez, Tangipa

**ABS, ABST OR NV:** Castillo, Chen, Davies, Flora, Hadwick, Hoover, Macedo, Ta

**UPDATED**

VERSION: April 23, 2025

CONSULTANT: Manuela Boucher / JUD. / (916) 319-2334

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