

119TH CONGRESS
2^D SESSION

S. _____

To authorize the Attorney General to provide grants to States, units of local government, and organizations to support the recruitment, training, and development of staff and infrastructure needed to support the due process rights of individuals facing removal.

IN THE SENATE OF THE UNITED STATES

Mr. MARKEY introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To authorize the Attorney General to provide grants to States, units of local government, and organizations to support the recruitment, training, and development of staff and infrastructure needed to support the due process rights of individuals facing removal.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLES.**

4 This Act may be cited as the “Securing Help for Im-
5 migrants through Education and Legal Development Act”
6 or the “SHIELD Act”.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) **INDIVIDUAL FACING REMOVAL.**—The term
4 “individual facing removal” means an individual in
5 a proceeding under section 235(b), 238, 240, or
6 241(a)(5) of the Immigration and Nationality Act (8
7 U.S.C. 1225(b), 1228, 1229a, and 1231(a)(5)).

8 (2) **SERVICE AREA.**—The term “service area”
9 means the jurisdiction or geographical area in which
10 an entity carries out activities using funds awarded
11 under this Act.

12 (3) **STATE.**—The term “State” means each of
13 the several States, the District of Columbia, the
14 Commonwealth of Puerto Rico, the United States
15 Virgin Islands, Guam, American Samoa, and the
16 Commonwealth of the Northern Mariana Islands.

17 (4) **UNIT OF LOCAL GOVERNMENT.**—The term
18 “unit of local government” has the meaning given
19 such term in section 901(a)(3) of the Omnibus
20 Crime Control and Safe Streets Act of 1968 (34
21 U.S.C. 10251(a)(3)).

22 **SEC. 3. IMMIGRATION LEGAL SERVICES STAFF AND INFRA-**
23 **STRUCTURE DEVELOPMENT PROGRAM.**

24 (a) **IN GENERAL.**—The Attorney General, acting
25 through the Director of the Office for Access to Justice,
26 shall award competitive workforce development and capac-

1 ity building grants to eligible entities that are seeking to
2 expand access to representation for individuals facing re-
3 moval by increasing the workforce and strengthening the
4 legal services infrastructure needed to provide such rep-
5 resentation.

6 (b) ELIGIBILITY CRITERIA.—An entity is eligible to
7 receive a grant under this section if it is a—

8 (1) State or unit of local government that has
9 allocated public funds towards the provision of immi-
10 gration-related legal services, including legal rep-
11 resentation, legal assistance, community navigation,
12 and related services, to individuals facing removal;

13 (2) a community-based organization, nonprofit
14 organization, or educational institution that provides
15 or coordinates immigration-related legal services to
16 individuals facing removal; or

17 (3) a community-based organization, nonprofit
18 organization, or educational institution that recruits,
19 trains, or mentors individuals who provide or will
20 provide immigration-related legal services to individ-
21 uals facing removal.

22 (c) APPLICATION.—An eligible entity seeking a grant
23 under this section shall submit to the Director of the Of-
24 fice for Access to Justice an application at such time, in

1 such manner, and containing such information as the Di-
2 rector may reasonably require.

3 (d) USE OF FUNDS.—Funds awarded under this sec-
4 tion shall be used to develop a workforce scaled to meet
5 the representation needs of all individuals facing removal,
6 grow the immigration-related legal services infrastructure,
7 and enhance long-term capacity to provide high-quality,
8 holistic, and linguistically appropriate legal services, which
9 may include—

10 (1) workforce recruitment and training pro-
11 grams, such as educational, fellowship, clinical, job
12 recruitment, and job training services aimed at in-
13 creasing the number of lawyers, accredited rep-
14 resentatives, social workers, and community naviga-
15 tors entering the immigration legal services field;

16 (2) technical assistance services, such as—

17 (A) substantive and technical skills-based
18 trainings to improve the quality of representa-
19 tion provided to individuals facing removal;

20 (B) language training to ensure legal staff
21 are equipped to provide linguistically appro-
22 priate services;

23 (C) specialized legal support to support
24 representation in complex defense cases, includ-

1 ing representation in Federal court and State
2 court; and

3 (D) leadership development, including
4 management training and establishing appro-
5 priate supervisory systems;

6 (3) local or regional coordination services to en-
7 sure a coordinated and efficient delivery of legal
8 services to individuals facing removal;

9 (4) retention improvement strategies to ensure
10 sustainable growth of the immigration-related legal
11 services field, including strategies to address case-
12 load management, burnout, and organizational sys-
13 tems;

14 (5) recruiting and retaining legal staff from
15 underrepresented backgrounds and promoting diver-
16 sity within the legal services field;

17 (6) growing legal services infrastructure and
18 representational capacity in locations with a signifi-
19 cant unmet need for legal representation and with
20 significantly less immigration-related legal services
21 capacity in their service area than national averages;
22 and

23 (7) physical, administrative, and technological
24 infrastructure resources in coordination with a use
25 of funds described in paragraphs (1) through (6).

1 (e) CONTRACTS AND SUBAWARDS.—A recipient of a
2 grant under this section may, for purposes authorized
3 under subsection (d), use all or a portion of that grant
4 to contract with or make one or more subawards to one
5 or more—

6 (1) community-based organization, nonprofit or-
7 ganization, private organization, or educational insti-
8 tution; or

9 (2) units of local government.

10 (f) CONDITIONS.—As a condition of receiving a grant
11 under this section, an eligible entity shall—

12 (1) submit to the Attorney General a certifi-
13 cation that the proposed uses of grant funds by the
14 entity—

15 (A) are consistent with this section; and

16 (B) meet the criteria determined by the
17 Attorney General, in consultation with the Di-
18 rector of the Office for Access to Justice; and

19 (2) not later than 90 days after the end of each
20 fiscal year for which an entity receives grant funds
21 under this section, submit a report to the Director
22 of the Office for Access to Justice that describes—

23 (A) the types of services being provided
24 under the grant;

25 (B) the service area;

1 (C) the number of individuals recruited or
2 retained through services funded under the
3 grant;

4 (D) the impact that staffing recruitment
5 and retention has had on organizational capac-
6 ity to represent more individuals within the
7 service area;

8 (E) the actual expenditures made in con-
9 nection with the grant, including personnel and
10 staffing structure and indirect costs;

11 (F) the outcomes of services; and

12 (G) a description of the continuing unmet
13 representation needs of individuals facing re-
14 moval in the service area and recommendations
15 of supports and resources needed to meet them.

16 (g) GRANT TERM.—The term of a grant under this
17 section shall be 4 years, which may be renewed.

18 (h) SUPPLEMENT OF NON-FEDERAL FUNDS.—Any
19 Federal funds received under this section shall be used
20 to supplement, not supplant, Federal or non-Federal
21 funds that would otherwise be available for activities fund-
22 ed under this section.

1 **SEC. 4. AUTHORITY AND DUTIES OF THE ADMINISTERING**
2 **AGENCY.**

3 (a) DUTIES OF THE DIRECTOR.—The Director of the
4 Office for Access to Justice may promulgate such rules,
5 policies, and procedures as may be necessary and appro-
6 priate to carry out the grant program under this Act, in-
7 cluding the following:

8 (1) Establishing competitive grantmaking pro-
9 cedures to identify grant recipients.

10 (2) Targeting grants in a manner that best ac-
11 complishes the following objectives and priorities:

12 (A) Advancing a legal services workforce
13 trained and equipped to implement an inde-
14 pendent legal defense for individuals facing re-
15 moval that ensures high-quality, independent
16 legal representation, regardless of ability to pay,
17 prior contact with the criminal legal system, or
18 the nature or perceived strength of their legal
19 defense.

20 (B) A national legal services infrastructure
21 scaled to meet the representation needs of all
22 individuals facing removal.

23 (C) Long-term growth of organizational or
24 programmatic capacity to provide high-quality,
25 holistic, and linguistically appropriate legal
26 services to individuals facing removal.

1 (D) Providing support to State and local
2 governments that have taken leadership and de-
3 veloped expertise in providing public funding for
4 the legal defense of individuals facing removal.

5 (E) Addressing the crisis of lack of rep-
6 resentation in parts of the country where such
7 publicly funded programs have not been estab-
8 lished.

9 (b) INDEPENDENT IMPLEMENTATION.—Except as
10 otherwise provided in this Act, the Attorney General, act-
11 ing through the Director of the Office for Access to Jus-
12 tice, shall exercise the authority under this Act in an inde-
13 pendent manner in order to advance the primary objective
14 of increasing access to representation for individuals fac-
15 ing removal, and without regard to other priorities of the
16 Federal Government related to immigration enforcement.

17 **SEC. 5. REPORTS AND ACCOUNTABILITY.**

18 (a) REPORTS AND EVALUATIONS .—For each fiscal
19 year, each grantee under this section during that fiscal
20 year shall submit to the Attorney General a report on the
21 effectiveness of activities carried out using such grant.
22 Each report shall include an evaluation in such form and
23 containing such information as the Attorney General may
24 reasonably require. The Attorney General shall specify the
25 dates on which such reports shall be submitted.

1 (b) ACCOUNTABILITY.—Grants awarded under this
2 Act shall be subject to the following accountability provi-
3 sions:

4 (1) AUDIT REQUIREMENT.—

5 (A) DEFINED TERM.—In this paragraph,
6 the term “unresolved audit finding” means a
7 finding in the final audit report of the Inspector
8 General of the Department of Justice under
9 subparagraph (C) that the audited grantee has
10 used grant funds for an unauthorized expendi-
11 ture or otherwise unallowable cost that is not
12 closed or resolved within 1 year after the date
13 on which 1 final audit report is issued.

14 (B) AUDITS.—Beginning in the first fiscal
15 year beginning after December 13, 2016, and
16 in each fiscal year thereafter, the Inspector
17 General of the Department of Justice shall con-
18 duct audits of grantees under this section to
19 prevent waste, fraud, and abuse of funds by
20 grantees. The Inspector General shall determine
21 the appropriate number of grantees to be au-
22 dited each year.

23 (C) FINAL AUDIT REPORT.—The Inspector
24 General of the Department of Justice shall sub-

1 mit to the Attorney General a final report on
2 each audit conducted under subparagraph (B).

3 (D) TECHNICAL ASSISTANCE.—A recipient
4 of a grant under this section that is found to
5 have an unresolved audit finding shall be eligi-
6 ble to receive prompt, individualized technical
7 assistance to resolve the audit finding and to
8 prevent future findings, for a period not to ex-
9 ceed the following 2 fiscal years.

10 (E) PRIORITY.—In making grants under
11 this section, the Attorney General shall give pri-
12 ority to applicants that did not have an unre-
13 solved audit finding during the 3 fiscal years
14 before submitting an application for a grant
15 under this section.

16 (2) NONPROFIT AGENCY REQUIREMENTS.—

17 (A) DEFINED TERM.—For purposes of this
18 paragraph and the grant program authorized
19 under this section, the term “nonprofit agency”
20 means an organization that is described in sec-
21 tion 501(c)(3) of the Internal Revenue Code of
22 1986 and is exempt from taxation under section
23 501(a) of the Internal Revenue Code of 1986.

24 (B) PROHIBITION.—The Attorney General
25 may not award a grant under this section to a

1 nonprofit agency that holds money in an off-
2 shore account for the purpose of avoiding pay-
3 ing the tax described in section 511(a) of the
4 Internal Revenue Code of 1986.

5 (C) DISCLOSURE.—Each nonprofit agency
6 that is awarded a grant under this section and
7 uses the procedures prescribed in regulations to
8 create a rebuttable presumption of reasonable-
9 ness for the compensation of its officers, direc-
10 tors, trustees, and key employees, shall disclose
11 to the Attorney General, in the application for
12 the grant, the process for determining such
13 compensation, including the independent per-
14 sons involved in reviewing and approving such
15 compensation, the comparability data used, and
16 contemporaneous substantiation of the delibera-
17 tion and decision. Upon request, the Attorney
18 General shall make the information disclosed
19 under this subparagraph available for public in-
20 spection.

21 (3) CONFERENCE EXPENDITURES.—

22 (A) LIMITATION.—Not more than
23 \$100,000 of the amounts made available to the
24 Department of Justice to carry out this section
25 may be used by the Attorney General, or by any

1 individual or entity awarded a grant under this
2 section to host, or make any expenditures relat-
3 ing to, a conference unless the Deputy Attorney
4 General provides prior written authorization
5 that the funds may be expended to host the
6 conference or make such expenditure.

7 (B) WRITTEN APPROVAL.—Written ap-
8 proval under subparagraph (A) shall include a
9 written estimate of all costs associated with the
10 conference, including the cost of all food, bev-
11 erages, audio-visual equipment, honoraria for
12 speakers, and entertainment.

13 (C) REPORT.—The Deputy Attorney Gen-
14 eral shall submit an annual report to the Com-
15 mittee on the Judiciary of the Senate and the
16 Committee on the Judiciary of the House of
17 Representatives on all conference expenditures
18 approved under this paragraph.

19 (4) ANNUAL CERTIFICATION.—Beginning in the
20 first fiscal year beginning after the date of the en-
21 actment of this Act, the Attorney General shall sub-
22 mit an annual certification to the Committee on the
23 Judiciary of the Senate, the Committee on Appro-
24 priations of the Senate, the Committee on the Judi-
25 ciary of the House of Representatives, and the Com-

1 mittee on Appropriations of the House of Represent-
2 atives that indicates whether all final audit reports
3 issued by the Office of the Inspector General under
4 paragraph (1) have been completed and reviewed by
5 the appropriate Assistant Attorney General or the
6 Director of the Office for Access to Justice.

7 **SEC. 6. AUTHORIZATION OF APPROPRIATIONS.**

8 There is authorized to be appropriated to the Depart-
9 ment of Justice to carry out this Act \$100,000,000 for
10 each of the fiscal years 2026 through 2027.

11 **SEC. 7. RULES OF CONSTRUCTION.**

12 Nothing in this Act may be construed to preclude the
13 ability for a respondent to obtain counsel at no expense
14 to the Government pursuant to sections 240(b)(4) and
15 292 of the Immigration and Nationality Act (8 U.S.C.
16 1229a(b)(4) and 8 U.S.C. 1362).