

# SENATE BILL 317

P1

(PRE-FILED)

1r1478  
CF 1r1942

---

By: **Senator Hettleman**

Requested: November 1, 2020

Introduced and read first time: January 13, 2021

Assigned to: Judicial Proceedings

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Office of the Attorney General – Right to Counsel in Immigration Proceedings**  
3 **Coordinator**

4 FOR the purpose of establishing that certain individuals have a right to legal  
5 representation in certain immigration proceedings; establishing the Right to Counsel  
6 in Immigration Proceedings Coordinator in the Office of the Attorney General;  
7 providing for the purpose, appointment, duties, and expenses of the Coordinator;  
8 requiring the Attorney General, in cooperation with the Secretary of Budget and  
9 Management, to set minimum salary, qualifications, and experience standards for  
10 the Coordinator and certain staff; requiring the Coordinator to provide for legal  
11 representation of certain individuals in certain immigration proceedings by certain  
12 organizations in a timely manner; requiring the Coordinator to award a certain  
13 individual with a certain stipend for a certain purpose under certain circumstances;  
14 prohibiting the termination of legal representation of certain individuals until a  
15 certain time; requiring the Coordinator to designate certain organizations to conduct  
16 certain outreach and provide certain education to certain individuals and certain  
17 communities; authorizing a local jurisdiction to enact a certain program; requiring  
18 the Coordinator to direct certain funds to a certain local jurisdiction for a certain  
19 purpose under certain circumstances; requiring the Coordinator to report to the  
20 Governor, the House Judiciary Committee, and the Senate Judicial Proceedings  
21 Committee on or before a certain date, and to publish the report on the Attorney  
22 General's website; requiring the Coordinator to adopt certain regulations; making  
23 the provisions of this Act severable; defining certain terms; and generally relating to  
24 the Right to Counsel in Immigration Proceedings Coordinator.

25 BY adding to

26 Article – State Government

27 Section 6–601 through 6–609 to be under the new subtitle “Subtitle 6. Right to  
28 Counsel in Immigration Proceedings Coordinator”

29 Annotated Code of Maryland

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2014 Replacement Code and 2020 Supplement)

Preamble

WHEREAS, More than 400 Marylanders are forced to fight permanent separation from their family and community in detention every year; and

WHEREAS, At least 7 out of 10 detained Marylanders are unable to access counsel in immigration proceedings; and

WHEREAS, More than 600 children of detained Marylanders are harshly and needlessly impacted each year by a parent being placed in immigration detention; and

WHEREAS, Legal representation dramatically increases the chance that an individual achieves a successful outcome in their immigration case; and

WHEREAS, Universal representation pilot programs in Baltimore City and Prince George's County have helped to keep many Maryland families together over the past 3 years; and

WHEREAS, Immigration proceedings have a disparate impact on black and brown households; and

WHEREAS, Providing a right to counsel to Maryland residents in immigration cases is a proven means of keeping families and communities together and avoiding the resulting social, economic, and public health costs of deportation; and

WHEREAS, Maryland residents must be able to invoke and enforce the right to legal representation in any immigration proceeding where their liberty is at stake to provide for equal access to justice and the courts; and

WHEREAS, It is the policy of the State that residents facing deportation shall have a right to legal representation in immigration proceedings, and the State shall provide such representation to Maryland residents to assist in the fair administration of justice; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
That the Laws of Maryland read as follows:

**Article – State Government**

**SUBTITLE 6. RIGHT TO COUNSEL IN IMMIGRATION PROCEEDINGS  
COORDINATOR.**

**6–601.**

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS

1 INDICATED.

2 (B) "COORDINATOR" MEANS THE RIGHT TO COUNSEL IN IMMIGRATION  
3 PROCEEDINGS COORDINATOR.

4 (C) "COVERED INDIVIDUAL" MEANS AN INDIVIDUAL WHO IS DETAINED IN  
5 IMMIGRATION DETENTION:

6 (1) IN MARYLAND; OR

7 (2) IN ANOTHER STATE AND IS A MARYLAND RESIDENT.

8 (D) "COVERED PROCEEDING" MEANS A JUDICIAL OR ADMINISTRATIVE  
9 PROCEEDING WHERE A COVERED INDIVIDUAL IS SUBJECT TO REMOVAL FROM THE  
10 UNITED STATES.

11 (E) "DESIGNATED COMMUNITY GROUP" MEANS A NONPROFIT COMMUNITY  
12 ORGANIZATION OR ASSOCIATION DESIGNATED BY THE COORDINATOR THAT HAS  
13 THE CAPACITY AND DEMONSTRATED ABILITY TO CONDUCT OUTREACH AND  
14 PROVIDE ENGAGEMENT, EDUCATION, AND INFORMATION TO COVERED  
15 INDIVIDUALS, THEIR FAMILIES, OR COMMUNITIES IMPACTED BY IMMIGRATION  
16 DETENTION.

17 (F) "DESIGNATED ORGANIZATION" MEANS A NONPROFIT ORGANIZATION  
18 OR ASSOCIATION DESIGNATED BY THE COORDINATOR THAT HAS THE CAPACITY TO  
19 PROVIDE LEGAL REPRESENTATION TO COVERED INDIVIDUALS AND AGREES TO  
20 ADHERE TO THE STANDARDS OF PRACTICE SET FORTH IN REGULATIONS ADOPTED  
21 UNDER § 6-609 OF THIS SUBTITLE.

22 (G) "LEGAL REPRESENTATION" INCLUDES ALL MANNER OF  
23 REPRESENTATION PROVIDED BY A DESIGNATED ORGANIZATION TO A COVERED  
24 INDIVIDUAL.

25 **6-602.**

26 (A) THERE IS A RIGHT TO COUNSEL IN IMMIGRATION PROCEEDINGS  
27 COORDINATOR IN THE OFFICE OF THE ATTORNEY GENERAL.

28 (B) THE PURPOSE OF THE COORDINATOR IS TO ORGANIZE AND DIRECT  
29 SERVICES AND RESOURCES IN ORDER TO PROVIDE ALL COVERED INDIVIDUALS WITH  
30 ACCESS TO LEGAL REPRESENTATION IN ALL COVERED PROCEEDINGS.

31 **6-603.**

1           (A)   (1)   THE ATTORNEY GENERAL SHALL APPOINT THE COORDINATOR.

2                   (2)   THE COORDINATOR SERVES AT THE PLEASURE OF THE  
3 ATTORNEY GENERAL.

4           (B)   SALARIES OF THE COORDINATOR AND STAFF FOR THE COORDINATOR  
5 AND EXPENSES RELATED TO THE OPERATION ESTABLISHED UNDER THIS SUBTITLE  
6 AND GENERAL OPERATIONS SHALL BE AS PROVIDED IN THE STATE BUDGET.

7           (C)   IN COOPERATION WITH THE SECRETARY OF BUDGET AND  
8 MANAGEMENT, THE ATTORNEY GENERAL SHALL SET MINIMUM SALARY,  
9 QUALIFICATIONS, AND EXPERIENCE STANDARDS FOR THE COORDINATOR AND ANY  
10 STAFF FOR THE COORDINATOR.

11 **6-604.**

12           (A)   A COVERED INDIVIDUAL HAS A RIGHT TO LEGAL REPRESENTATION IN A  
13 COVERED PROCEEDING.

14           (B)   THE COORDINATOR SHALL PROVIDE LEGAL REPRESENTATION TO A  
15 COVERED INDIVIDUAL FOR A COVERED PROCEEDING, INCLUDING PROCEEDINGS  
16 UNDER §§ 235, 240, AND 241 OF THE FEDERAL IMMIGRATION AND NATIONALITY  
17 ACT.

18           (C)   THE COORDINATOR MAY PROVIDE LEGAL REPRESENTATION TO A  
19 COVERED INDIVIDUAL FOR THE FOLLOWING PROCEEDINGS, IF THE RESULTS OF THE  
20 PROCEEDING WILL MATERIALLY AFFECT A COVERED PROCEEDING:

21                   (1)   HABEAS CORPUS PROCEEDINGS;

22                   (2)   FEDERAL APPEALS; OR

23                   (3)   ANY OTHER LEGAL MATTERS AFFECTING DEPORTATION.

24 **6-605.**

25           (A)   (1)   THE COORDINATOR SHALL ENSURE THAT A COVERED  
26 INDIVIDUAL RECEIVES LEGAL REPRESENTATION BY A DESIGNATED ORGANIZATION  
27 IN A COVERED PROCEEDING AS SOON AS POSSIBLE AFTER THE INITIATION OF A  
28 COVERED PROCEEDING.

29                   (2)   IF FEASIBLE, LEGAL REPRESENTATION UNDER THIS SUBSECTION

1 SHOULD BEGIN NO LATER THAN THE TIME OF THE INDIVIDUAL'S FIRST SCHEDULED  
2 APPEARANCE IN A COVERED PROCEEDING.

3 (B) IF A COVERED INDIVIDUAL IS DETAINED OUT OF STATE AND THE  
4 COORDINATOR CANNOT SECURE LEGAL REPRESENTATION FROM A DESIGNATED  
5 ORGANIZATION, THE COORDINATOR SHALL AWARD THE COVERED INDIVIDUAL A  
6 STIPEND TO SUBSIDIZE LEGAL REPRESENTATION BY A COMPETENT PRIVATE  
7 ATTORNEY, NONPROFIT ORGANIZATION, LAW SCHOOL CLINIC, OR OTHER  
8 APPROPRIATE PROVIDER.

9 (C) LEGAL REPRESENTATION MAY NOT TERMINATE UNTIL A FINAL  
10 JUDGMENT IS RENDERED BY THE BOARD OF IMMIGRATION APPEALS AND ALL  
11 OTHER LEGAL MATTERS AFFECTING RELIEF FROM DEPORTATION, SUCH AS FAMILY  
12 COURT PROCEEDINGS AND HABEAS PETITIONS, HAVE FINAL JUDGMENTS.

13 **6-606.**

14 (A) THE COORDINATOR SHALL DESIGNATE APPROPRIATE COMMUNITY  
15 GROUPS TO CONDUCT OUTREACH AND PROVIDE EDUCATION IN APPROPRIATE  
16 LANGUAGES TO COVERED INDIVIDUALS, THEIR FAMILIES, AND COMMUNITIES  
17 IMPACTED BY IMMIGRATION DETENTION BY:

18 (1) HOSTING KNOW-YOUR-RIGHTS TRAININGS AND OTHER  
19 WORKSHOPS;

20 (2) DISTRIBUTING WRITTEN INFORMATION;

21 (3) ASSISTING COMMUNITIES IN FORMING AND MAINTAINING  
22 NEIGHBORHOOD DEFENSE COMMITTEES;

23 (4) REFERRING INDIVIDUALS TO AVAILABLE SUPPORT SERVICES;  
24 AND

25 (5) ANY OTHER ACTIVITY NEEDED TO ENGAGE, EDUCATE, OR INFORM  
26 INDIVIDUALS ABOUT THEIR RIGHTS.

27 (B) THE COORDINATOR MAY AWARD A STIPEND TO A DESIGNATED  
28 COMMUNITY GROUP TO FACILITATE COORDINATION BETWEEN OUT-OF-STATE  
29 LEGAL REPRESENTATION AND THE COVERED INDIVIDUAL'S FAMILY MEMBERS.

30 **6-607.**

31 (A) A LOCAL JURISDICTION MAY ENACT A PROGRAM SUBSTANTIALLY

1 SIMILAR TO THE PROGRAM UNDER THIS SUBTITLE.

2 (B) IF A LOCAL JURISDICTION ENACTS A PROGRAM PROVIDING FOR A RIGHT  
3 TO COUNSEL IN REMOVAL PROCEEDINGS SUBSTANTIALLY SIMILAR TO THE ONE  
4 DESCRIBED IN THIS SUBTITLE, THE COORDINATOR MAY NOT IMPLEMENT THIS  
5 SUBTITLE IN THAT JURISDICTION AND THE COORDINATOR SHALL INSTEAD DIRECT  
6 THE FUNDING THAT WOULD HAVE BEEN ALLOCATED UNDER THIS SUBTITLE FOR THE  
7 BENEFIT OF THAT LOCAL JURISDICTION'S DETAINED COMMUNITY MEMBERS TO THE  
8 LOCAL JURISDICTION'S PROGRAM.

9 **6-608.**

10 (A) ON OR BEFORE AUGUST 31, 2023, AND EACH AUGUST 31 THEREAFTER,  
11 THE COORDINATOR SHALL SUBMIT A WRITTEN REPORT TO THE GOVERNOR AND, IN  
12 ACCORDANCE WITH § 2-1257 OF THE STATE GOVERNMENT ARTICLE, THE HOUSE  
13 JUDICIARY COMMITTEE AND THE SENATE JUDICIAL PROCEEDINGS COMMITTEE.

14 (B) THE REPORT SHALL PROVIDE:

15 (1) THE NUMBER OF COVERED INDIVIDUALS PROVIDED LEGAL  
16 REPRESENTATION DURING THE PREVIOUS CALENDAR YEAR;

17 (2) INFORMATION ON AND METRICS EVALUATING THE COVERED  
18 INDIVIDUALS; AND

19 (3) A SUMMARY OF THE ENGAGEMENT AND EDUCATION OF COVERED  
20 INDIVIDUALS, FAMILY MEMBERS, AND COMMUNITY MEMBERS VULNERABLE TO  
21 DETENTION AND DEPORTATION.

22 (C) THE COORDINATOR SHALL PUBLISH THE REPORT ON THE ATTORNEY  
23 GENERAL'S WEBSITE.

24 **6-609.**

25 THE COORDINATOR SHALL ADOPT REGULATIONS TO CARRY OUT THE  
26 PROVISIONS OF THIS SUBTITLE.

27 SECTION 2. AND BE IT FURTHER ENACTED, That, if any provision of this Act or  
28 application thereof to any person or circumstance is held invalid for any reason in a court  
29 of competent jurisdiction, the invalidity does not affect other provisions or any other  
30 application of this Act that can be given effect without the invalid provision or application,  
31 and for this purpose the provisions of this Act are declared severable.

32 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect

1 October 1, 2021.