

**First Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 21-0469.01 Michael Dohr x4347

HOUSE BILL 21-1194

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A BILL FOR AN ACT

101 **CONCERNING CREATION OF THE IMMIGRATION LEGAL DEFENSE FUND,**
102 **AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill creates the immigration legal defense fund (fund). The department of human services as the administrator awards grants from the fund to qualifying nonprofit organizations (organizations) that provide legal advice, counseling, and representation for, and on behalf of, indigent clients who are subject to an immigration proceeding. The bill lists permissible uses of grant money awarded from the fund.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
Amended 2nd Reading
June 2, 2021

HOUSE
3rd Reading Unamended
May 12, 2021

HOUSE
Amended 2nd Reading
May 11, 2021

Organizations that receive a grant from the fund are required to report to the administrator certain information about persons served and services provided by the organization.

The bill makes an appropriation.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) Colorado is a welcoming state that believes that separating
5 families harms our communities and our state. We recognize the many
6 contributions that immigrants have made, historically and today, to
7 Colorado's economy, communities, and culture. Tearing Coloradans away
8 from their communities causes harm, financial instability, and trauma that
9 radiates throughout the state.

10 (b) Although immigration detention and proceedings are civil in
11 nature, immigrants are subjected to adversarial legal proceedings and are
12 often detained throughout their legal cases. Additionally, according to
13 Transactional Records Access Clearinghouse data, seventy percent of
14 immigrants detained in civil immigration custody in Aurora, Colorado,
15 faced deportation hearings without a lawyer.

16 (c) Many people in immigration court proceedings have valid
17 legal claims to remain in the United States but are unable to argue their
18 cases effectively absent legal expertise in complex U.S. immigration law.
19 Only five percent of immigration cases were won between 2007 and 2012
20 without an attorney, while ninety-five percent of successful cases
21 involved persons who were represented by an attorney.

22 (d) Deportations and immigration detention are costly to Colorado
23 communities, taxpayers, and employers. A recent report from the

1 Colorado Fiscal Institute shows Coloradans could save nearly \$18.6
2 million by providing universal representation for Coloradans in
3 immigration court, thereby supporting families with legal fees, saving
4 employers turnover costs, and allowing individuals to work and remain
5 with their families as they fight their immigration cases.

6 (2) Therefore, the general assembly declares that it is prudent for
7 Colorado to create an immigration legal defense fund to help individuals
8 with their immigration court proceedings in order to promote due process,
9 increase judicial efficiency, and protect civil liberties.

10 **SECTION 2.** In Colorado Revised Statutes, **add** article 3.8 to title
11 8 as follows:

12 **ARTICLE 3.8**

13 **Immigration Legal Assistance**

14 **8-3.8-101. Immigration legal assistance - fund - report -**
15 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
16 OTHERWISE REQUIRES:

17 (a) "ADMINISTRATOR" MEANS THE STATE DEPARTMENT OF LABOR
18 AND EMPLOYMENT, CREATED IN SECTION 24-1-121.

19 (b) "FUND" MEANS THE IMMIGRATION LEGAL DEFENSE FUND
20 ESTABLISHED IN SUBSECTION (2) OF THIS SECTION.

21 (c) "INDIGENT" MEANS A PERSON WHOSE HOUSEHOLD INCOME
22 DOES NOT EXCEED TWO HUNDRED PERCENT OF THE FAMILY FEDERAL
23 POVERTY GUIDELINES, ADJUSTED FOR FAMILY SIZE, DETERMINED
24 ANNUALLY BY THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN
25 SERVICES.

26 (d) "QUALIFYING ORGANIZATION" MEANS AN ORGANIZATION THAT:

27 (I) IS EXEMPT FROM TAXATION PURSUANT TO SECTION 501(c)(3)

1 OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED;
2 (II) HAS A PHYSICAL PLACE OF BUSINESS IN COLORADO;
3 (III) OBTAINS MORE THAN TWENTY-FIVE PERCENT OF ITS FUNDING
4 FROM SOURCES OTHER THAN GRANTS FROM THE FUND;
5 (IV) CAN PROVIDE SERVICES USING GRANT DOLLARS WITHIN SIX
6 MONTHS OF RECEIVING FUNDING; AND
7 (V) INCLUDES ON THE STAFF OF THE ORGANIZATION AN ATTORNEY
8 WITH AT LEAST THREE YEARS' EXPERIENCE AND EXPERTISE IN PROVIDING
9 LEGAL REPRESENTATION TO INDIGENT CLIENTS IN CIVIL IMMIGRATION
10 PROCEEDINGS BEFORE THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
11 WITHIN THE UNITED STATES DEPARTMENT OF JUSTICE; OR
12 (VI) (A) PARTNERS WITH A NONPROFIT LEGAL SERVICE PROVIDER
13 THAT HAS AT LEAST THREE YEARS' EXPERIENCE AND EXPERTISE IN
14 PROVIDING LEGAL REPRESENTATION TO INDIGENT CLIENTS IN CIVIL
15 IMMIGRATION PROCEEDINGS BEFORE THE EXECUTIVE OFFICE FOR
16 IMMIGRATION REVIEW WITHIN THE UNITED STATES DEPARTMENT OF
17 JUSTICE; OR
18 (B) ONLY IF THERE ARE NO NONPROFIT LEGAL SERVICES
19 PROVIDERS AVAILABLE TO PROVIDE LEGAL SERVICES, PARTNERS WITH A
20 PRIVATE IMMIGRATION ATTORNEY WHO HAS A PHYSICAL PLACE OF
21 BUSINESS IN OR NEAR THE GEOGRAPHIC AREA THAT THE QUALIFYING
22 ORGANIZATION SERVES, AND THE PRIVATE IMMIGRATION ATTORNEY HAS
23 AT LEAST THREE YEARS' EXPERIENCE AND EXPERTISE IN PROVIDING LEGAL
24 REPRESENTATION TO INDIGENT CLIENTS IN CIVIL IMMIGRATION
25 PROCEEDINGS BEFORE THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
26 WITHIN THE UNITED STATES DEPARTMENT OF JUSTICE.
27 (2) THERE IS ESTABLISHED IN THE STATE TREASURY THE

1 IMMIGRATION LEGAL DEFENSE FUND. THE MONEY IN THE FUND IS
2 CONTINUOUSLY APPROPRIATED TO THE ADMINISTRATOR. PURSUANT TO
3 SUBSECTION (5)(b) OF THIS SECTION, THE ADMINISTRATOR IS AUTHORIZED
4 TO MAKE GRANTS FROM THE FUND TO QUALIFYING ORGANIZATIONS TO
5 REPRESENT INDIGENT INDIVIDUALS APPEARING BEFORE AN IMMIGRATION
6 COURT IN COLORADO WHO LACK PRIVATE COUNSEL.

7 (3) A QUALIFYING ORGANIZATION THAT RECEIVES A GRANT FROM
8 THE FUND SHALL ONLY USE THE GRANT FOR SERVICES THAT INCLUDE
9 PROVIDING INDIGENT CLIENTS WITH:

10 (a) LEGAL REPRESENTATION BEFORE AN IMMIGRATION COURT IN
11 COLORADO;

12 (b) REPRESENTATION BEFORE THE BOARD OF IMMIGRATION
13 APPEALS WITHIN THE UNITED STATES DEPARTMENT OF JUSTICE, BUT DOES
14 NOT INCLUDE PROVIDING INDIGENT CLIENTS WITH REPRESENTATION
15 BEFORE A UNITED STATES DISTRICT COURT, A UNITED STATES CIRCUIT
16 COURT OF APPEALS, OR THE UNITED STATES SUPREME COURT ON APPEAL
17 FROM AN IMMIGRATION ORDER OR ON ANY OTHER RELATED MATTERS;

18 (c) ANY OTHER REPRESENTATION BEFORE AN IMMIGRATION
19 AGENCY NECESSARY TO PROTECT THE INTERESTS OF THE INDIGENT CLIENT
20 FROM REMOVAL OR CIVIL IMMIGRATION DETENTION, INCLUDING CUSTODY
21 REDETERMINATION PROCEEDINGS, REINSTATEMENT OF REMOVAL
22 PROCEEDINGS, WITHHOLDING-ONLY PROCEEDINGS, REQUEST FOR RELEASE
23 FROM CIVIL IMMIGRATION DETENTION, OR APPLICATION FOR ANCILLARY
24 RELIEF FROM REMOVAL;

25 (d) ANY OTHER CONTINUED REPRESENTATION AFTER THE
26 ISSUANCE OF A FINAL ORDER BY THE EXECUTIVE OFFICE FOR IMMIGRATION
27 REVIEW THAT IS NECESSARY TO CONCLUDE THE INDIGENT CLIENT'S

1 REPRESENTATION, SECURE THE INDIGENT CLIENT'S IMMIGRATION
2 BENEFITS, OR OBTAIN THE INDIGENT CLIENT'S RELEASE FROM IMMIGRATION
3 DETENTION; AND

4 (e) LITIGATION EXPENSES, SUCH AS APPLICATION FEES,
5 INTERPRETATION AND TRANSLATION COSTS, MEDICAL OR PSYCHOLOGICAL
6 EVALUATIONS, AND EXPERT FEES, AS WELL AS ASSOCIATED OVERHEAD
7 EXPENSES.

8 (4) (a) A QUALIFYING ORGANIZATION SHALL PROVIDE
9 REPRESENTATION ON ALL LEGAL MATTERS NECESSARY FOR PROTECTION
10 FROM REMOVAL AND DETENTION, THROUGH APPEALS TO THE BOARD OF
11 IMMIGRATION APPEALS, AND SHALL ACCEPT CASES WITHOUT REGARD TO
12 THE INDIGENT CLIENT'S LIKELIHOOD OF SUCCESS OR ELIGIBILITY FOR
13 IMMIGRATION RELIEF.

14 (b) (I) A QUALIFYING ORGANIZATION SHALL MOVE TO WITHDRAW
15 FROM REPRESENTATION IF:

16 (A) THE VENUE IN THE CASE IS TRANSFERRED TO AN IMMIGRATION
17 COURT OUTSIDE OF COLORADO;

18 (B) THE INDIGENT CLIENT NO LONGER RESIDES IN COLORADO; OR

19 (C) WITHDRAWAL IS REQUIRED BY THE RULES OF PROFESSIONAL
20 CONDUCT.

21 (II) IF THE QUALIFYING ORGANIZATION'S WITHDRAWAL MOTION IS
22 DENIED, THE ORGANIZATION SHALL PROVIDE LEGAL SERVICES AS
23 REQUIRED BY THE EXECUTIVE OFFICE FOR IMMIGRATION REVIEW.

24 (5) (a) A QUALIFYING ORGANIZATION SEEKING TO RECEIVE A
25 GRANT FROM THE FUND SHALL SUBMIT AN APPLICATION EACH YEAR TO
26 THE ADMINISTRATOR ON A FORM PROVIDED BY THE ADMINISTRATOR. THE
27 APPLICATION FORM MUST REQUEST ANY INFORMATION THAT THE

1 ADMINISTRATOR NEEDS TO DETERMINE WHETHER THE APPLYING
2 ORGANIZATION MEETS THE QUALIFICATIONS FOR RECEIPT OF A GRANT, THE
3 DOLLAR AMOUNT REQUESTED, AND INTENDED USE OF ANY FUNDING.

4 (b) (I) THE ADMINISTRATOR SHALL EVALUATE APPLICATIONS OF
5 QUALIFYING ORGANIZATIONS TO DETERMINE IF THE APPLICATIONS SATISFY
6 THE CRITERIA DEFINED IN SUBSECTION (1)(d) OF THIS SECTION AND SHALL
7 SELECT GRANT RECIPIENTS BASED ON THEIR EXPERTISE AND
8 QUALIFICATIONS TO PROVIDE QUALIFIED SERVICES THROUGH A GRANT
9 FROM THE FUND.

10 (II) ON OR BEFORE JANUARY 31, 2022, AND ON JANUARY 2 EACH
11 YEAR THEREAFTER, THE ADMINISTRATOR SHALL AWARD GRANTS FROM
12 THE FUND, SUBJECT TO AVAILABLE APPROPRIATIONS, TO QUALIFYING
13 ORGANIZATIONS.

14 (III) THE ADMINISTRATOR SHALL AWARD LARGER GRANTS TO
15 FEWER QUALIFYING ORGANIZATIONS TO ACHIEVE A GREATER,
16 MEASURABLE IMPACT. THE ADMINISTRATOR MAY DETERMINE THE
17 AMOUNT OF EACH GRANT AWARD, WHICH MAY DIFFER FROM THE
18 QUALIFYING ORGANIZATION'S REQUESTED DOLLAR AMOUNT.

19 (6) THE ADMINISTRATOR SHALL AWARD GRANTS SO THAT SEVENTY
20 PERCENT OF THE MONEY IS ALLOCATED TO QUALIFYING ORGANIZATIONS
21 SERVING INDIGENT CLIENTS WHO ARE DETAINED IN THE CUSTODY OF THE
22 UNITED STATES DEPARTMENT OF HOMELAND SECURITY FOR DEPORTATION
23 PROCEEDINGS AND THIRTY PERCENT OF THE MONEY IS ALLOCATED TO
24 QUALIFYING ORGANIZATIONS SERVING INDIGENT CLIENTS WHO ARE NOT
25 DETAINED FOR DEPORTATION PROCEEDINGS; EXCEPT THAT THIS SPLIT DOES
26 NOT APPLY IF THE NEED FOR DETAINED INDIGENT CLIENT REPRESENTATION
27 CAN BE MET WITH LESS THAN SEVENTY PERCENT OF THE MONEY.

1 TWO-THIRDS OF THE MONEY FOR THOSE QUALIFYING ORGANIZATIONS
2 SERVING INDIGENT CLIENTS WHO ARE NOT DETAINED MUST BE USED FOR
3 IN-PERSON LEGAL SERVICES SERVING INDIGENT CLIENTS OUTSIDE OF THE
4 DENVER-METRO AREA, UNLESS THERE ARE NO QUALIFYING APPLICANTS
5 SERVING NONDETAINED INDIGENT CLIENTS OUTSIDE THE DENVER-METRO
6 AREA.

7 (7) EACH QUALIFYING ORGANIZATION THAT RECEIVES A GRANT
8 PURSUANT TO THIS SECTION SHALL SUBMIT AN ANNUAL REPORT TO THE
9 ADMINISTRATOR THAT INCLUDES THE FOLLOWING INFORMATION, TO THE
10 EXTENT POSSIBLE AND TO THE EXTENT THAT IT DOES NOT VIOLATE THE
11 PRIVILEGE AND CONFIDENTIALITY OF AN ATTORNEY-CLIENT
12 RELATIONSHIP:

13 (a) NUMBER OF CLIENTS SERVED;

14 (b) CASE OUTCOMES;

15 (c) TYPE OF DEFENSE, INCLUDING DETAINED AND NONDETAINED;

16 (d) TYPE OF CASE, INCLUDING REMOVAL, ASYLUM, ADJUSTMENT
17 OF STATUS, AND WORK AUTHORIZATION;

18 (e) LOCATION OF COURT AND JUDGE FOR EACH CASE;

19 (f) CLIENT FAMILY DATA, INCLUDING NUMBER OF CHILDREN AND
20 WHETHER THE HOUSEHOLD HAS MIXED IMMIGRATION STATUS;

21 (g) CLIENT COUNTRY OF ORIGIN;

22 (h) CLIENT ETHNICITY;

23 (i) CLIENT ZIP CODE;

24 (j) CLIENT'S DURATION IN COLORADO AND THE UNITED STATES;

25 (k) WHETHER BOND OR RELEASE WAS GRANTED TO CLIENT;

26 (l) COST OF BOND FOR CLIENT;

27 (m) INCOME RANGE OF CLIENT;

1 (n) WHETHER OR NOT CLIENT HAD PREVIOUS IMMIGRATION STATUS
2 IN THE UNITED STATES; AND

3 (o) NUMBER OF DAYS CLIENT SPENT IN DETENTION.

4 (8) (a) IN ADDITION TO ANY APPROPRIATION FROM THE GENERAL
5 FUND, THE ADMINISTRATOR MAY SEEK, ACCEPT, AND EXPEND GIFTS,
6 GRANTS, OR DONATIONS FROM PRIVATE OR PUBLIC SOURCES FOR THE
7 PURPOSES OF THIS SECTION. THE ADMINISTRATOR MAY RECEIVE AND
8 EXPEND THE MONEY RECEIVED THROUGH GIFTS, GRANTS, AND DONATIONS.

9 (b) THE ADMINISTRATOR MAY EXPEND NO MORE THAN THE LESSER
10 OF FIFTEEN THOUSAND DOLLARS OR UP TO FIVE PERCENT PER YEAR FROM
11 THE FUND FOR THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH THE
12 ADMINISTRATION OF THIS SECTION. THE STATE TREASURER SHALL CREDIT
13 ALL INTEREST AND INCOME DERIVED FROM THE DEPOSIT AND INVESTMENT
14 OF MONEY IN THE FUND TO THE FUND.

15 (9) NOTWITHSTANDING SECTION 24-1-136 (11)(a)(I), THE
16 ADMINISTRATOR SHALL SUBMIT A CONSOLIDATED REPORT OF THE
17 REPORTED INFORMATION DESCRIBED IN SUBSECTION (7) OF THIS SECTION
18 TO THE JOINT BUDGET COMMITTEE ON JULY 1, 2022, AND EACH JULY 1
19 THEREAFTER.

20 (10) A COUNTY MAY APPROPRIATE LOCAL OR STATE FUNDS TO
21 IMPLEMENT ITS OWN IMMIGRATION LEGAL DEFENSE FUND, PARTNER WITH
22 A LOCAL IMMIGRATION LEGAL DEFENSE FUND, OR PARTNER WITH THE
23 ADMINISTRATOR TO ENHANCE THE EFFECTIVENESS OF THE IMMIGRATION
24 LEGAL DEFENSE FUND.

25 **SECTION 3. Appropriation.** For the 2021-22 state fiscal year,
26 \$100,000 is appropriated to the immigration legal defense fund created
27 in section 26-2-1201 (2), C.R.S. This appropriation is from the general

1 fund. The department of labor and employment is responsible for the
2 accounting related to this appropriation.

3 **SECTION 4. Act subject to petition - effective date.** This act
4 takes effect at 12:01 a.m. on the day following the expiration of the
5 ninety-day period after final adjournment of the general assembly; except
6 that, if a referendum petition is filed pursuant to section 1 (3) of article V
7 of the state constitution against this act or an item, section, or part of this
8 act within such period, then the act, item, section, or part will not take
9 effect unless approved by the people at the general election to be held in
10 November 2022 and, in such case, will take effect on the date of the
11 official declaration of the vote thereon by the governor.