

AMENDED IN SENATE MARCH 29, 2017

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AMENDED IN SENATE FEBRUARY 15, 2017

AMENDED IN SENATE JANUARY 24, 2017

SENATE BILL

No. 6

Introduced by Senator Hueso
(Principal coauthor: Senator De León)
(Coauthor: Senator Dodd)
(Coauthor: Assembly Member Rendon)

December 5, 2016

An act to amend the heading of Chapter 5.6 (commencing with Section 13300) of Part 3 of Division 9 of, and to add Sections 13307, 13308, and 13309 to, the Welfare and Institutions Code, relating to immigrants, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 6, as amended, Hueso. Immigrants: removal proceedings: legal services.

Existing law requires the State Department of Social Services, subject to the availability of funding, to contract with qualified nonprofit legal services organizations to provide legal services to unaccompanied, undocumented minors, as defined, who are transferred to the care and custody of the federal Office of Refugee Resettlement and who are present in this state. Existing law requires that the contracts awarded meet certain conditions.

This bill would require the department to either contract with qualified nonprofit legal services organizations, or contract with a nonprofit

agency to administer funding to nonprofit legal services organization subcontractors, to provide legal services to individuals in removal proceedings who are not otherwise entitled to legal representation under an existing local, state, or federal program. *The bill would prohibit funds provided under one of those contracts from being used to provide legal services to an individual who has been convicted of, or who is currently appealing a conviction for, a violent felony.* The bill would authorize the department to prioritize the award of contracts to provide legal services to detained individuals in removal proceedings and would also authorize the department to prioritize the award of contracts to qualified nonprofit legal services organizations that also receive county or city funding to provide legal services to individuals in removal proceedings. *The bill would require the department to prioritize the award of contracts to provide legal services to specified individuals, including, among others, veterans of the United States military and their spouses.* The bill would require the contracts awarded pursuant to this act to meet certain conditions. The bill would also authorize the department to contract with organizations to provide legal training and technical assistance to qualified nonprofit legal services organizations, to provide postconviction relief services to immigrants, and to provide case coordination and placement services to ensure that all individuals in removal proceedings receive representation in a timely fashion. The bill would establish the California Universal Representation Trust Fund to accept donations from private foundations and other philanthropic entities for the purpose of expanding the number of individuals that may be provided legal services pursuant to these provisions. The bill would appropriate \$12,000,000 from the General Fund to the department.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. This act shall be known and may be cited as the
- 2 *Expanding Due Process for All Act.*
- 3 SEC. 2. The heading of Chapter 5.6 (commencing with Section
- 4 13300) of Part 3 of Division 9 of the Welfare and Institutions Code
- 5 is amended to read:

CHAPTER 5.6. SERVICES FOR IMMIGRANTS

SEC. 3. Section 13307 is added to the Welfare and Institutions Code, immediately following Section 13306, to read:

13307. (a) (1) (A) The State Department of Social Services shall either contract directly with qualified nonprofit legal services organizations, or contract with a nonprofit agency to administer funding to nonprofit legal services organization subcontractors, to provide legal services to individuals in removal proceedings who are not otherwise entitled to legal representation under an existing local, state, or federal program. The department may prioritize the award of contracts to provide legal services for detained individuals in removal proceedings. The department may prioritize the award of contracts to qualified nonprofit legal services organizations that also receive county or city funding to provide legal services to individuals in removal proceedings.

(B) The department may consult with stakeholders to determine the prioritization of funding based on specified factors, including, but not limited to, the income of the individuals in removal proceedings.

(C) The department shall prioritize the award of contracts to provide legal services for any of the following:

(i) Detained individuals who have a parent, spouse, or child who is a citizen or legal permanent resident of the United States.

(ii) Veterans of the United States military and their spouses.

(iii) Individuals who have a claim for political asylum.

(iv) (I) Individuals who have longstanding ties to the United States or who are eligible for relief under the Deferred Action for Childhood Arrivals program.

(II) The department shall, in consultation with stakeholders, define the term “longstanding ties” for the purposes of this clause.

(D) For purposes of this paragraph, “stakeholders” include, but are not limited to, nonprofit legal services organizations with experience in immigration removal defense and nonprofit organizations with experience in public policy impacting immigrants.

(2) By ____, the department may request proposals for agencies to act as the umbrella agency in order to determine whether an umbrella agency model is more efficient than contracting directly with individual organizations.

1 (b) Funds provided under a contract awarded pursuant to this
2 section ~~may~~ *shall not* be used to provide legal services to an
3 individual who has a ~~final conviction for~~ *been convicted of, or who*
4 *is currently appealing a conviction for*, a violent felony, as defined
5 in subdivision (c) of Section 667.5 of the Penal Code, ~~only if the~~
6 ~~legal services provider determines that the individual has a~~
7 ~~potentially meritorious claim for relief or defense from removal.~~
8 Code. For the purposes of this subdivision, “legal services” does
9 not include activities relating to client intake, which shall be
10 provided regardless of an individual’s criminal history.

11 (c) For purposes of this chapter, the term “individual in removal
12 proceedings” means an individual who is in removal proceedings
13 pursuant to Section 240 of the federal Immigration and Nationality
14 Act (8 U.S.C. Sec. 1229a) before a federal immigration judge that
15 is located in California, an individual who is arrested by
16 Immigration and Customs Enforcement within California and
17 placed in ~~expedited~~ removal proceedings, an individual who is
18 paroled into the United States at or near a port of entry in California
19 for purposes of removal proceedings, any individual detained by
20 United States Customs and Border Protection at any port of entry
21 in California, including, but not limited to, when the port of entry
22 is at an airport, on land, or at sea, or an individual who is a party
23 to an appeal made to the Board of Immigration Appeals, the United
24 States Court of Appeals for the Ninth Circuit, or a federal district
25 court in California arising from those proceedings.

26 SEC. 4. Section 13308 is added to the Welfare and Institutions
27 Code, immediately following Section 13307, to read:

28 13308. (a) Contracts awarded pursuant to Section 13307 shall
29 be executed either with a nonprofit agency that will administer
30 funding to nonprofit legal services organization subcontractors
31 that meet both of the following requirements or directly with
32 nonprofit legal services organizations that meet both of the
33 following requirements:

34 (1) (A) Have significant experience in representing individuals
35 in removal proceedings and asylum applications.

36 (B) For the purposes of this paragraph, “significant experience”
37 means at least one of the following:

38 (i) A minimum of five years of experience as an organization.

39 (ii) Experience as a federal subcontractor for immigration
40 representation.

1 (iii) Experience working with or under the supervision of an
2 organization, including a legal training or a technical assistance
3 organization, that has significant experience in removal defense.

4 (2) Are accredited by the Board of Immigration Appeals under
5 the United States Department of Justice’s Executive Office for
6 Immigration Review or meet the requirements to receive funding
7 from the Trust Fund Program administered by the State Bar of
8 California.

9 (b) (1) The department may contract with organizations that
10 provide legal training and technical assistance to other
11 organizations qualified under subdivision (a).

12 (2) Legal services organizations that provide legal training and
13 technical assistance shall have at least 10 years of experience
14 conducting immigration legal services trainings and technical
15 assistance specifically on removal defense and meet the
16 requirements as a support center to receive funding from the Trust
17 Fund Program administered by the State Bar of California.

18 (3) “Legal training and technical assistance” includes, but is not
19 limited to, webinars, in-person trainings, mentoring, removal
20 defense boot camps, and technical assistance in the form of
21 answering questions via email, fax, or telephone from organizations
22 qualified under subdivision (a) and their staff and volunteers who
23 assist individuals with removal defense.

24 (c) (1) The department may contract with organizations that
25 provide postconviction relief services to immigrants.

26 (2) Organizations with contracts described in this subdivision
27 may be clean slate service providers or criminal defense
28 organizations that will file postconviction relief motions and
29 petitions in California’s courts.

30 (d) The department may contract with organizations that provide
31 case coordination and placement services to ensure that all
32 individuals eligible for representation pursuant to a contract entered
33 into under Section 13307 or 13309 receive that representation in
34 a timely fashion.

35 SEC. 5. Section 13309 is added to the Welfare and Institutions
36 Code, to read:

37 13309. (a) The California Universal Representation Trust Fund
38 is hereby established in the State Treasury to accept donations
39 from private foundations and other philanthropic entities for the
40 purpose of expanding the number of individuals who may be

1 provided legal services through contracts entered into by the
2 department pursuant to Sections 13307 and 13308.

3 (b) Notwithstanding subdivision (a) of Section 13308, the
4 department may utilize moneys in this fund to contract with private
5 attorneys who are members of the American Immigration Lawyers
6 Association for the purpose of providing legal services, if the
7 private attorneys demonstrate that, within the past five years, they
8 have been substantially involved in the practice of immigration
9 and nationality law, as described in Section 2.0 and Section 3.0 of
10 the California State Bar Standards for Certification and
11 Recertification in Immigration and Nationality Law (as revised
12 November 19, 2010). A private attorney does not need to be
13 certified by the State Bar of California as a specialist in
14 immigration and nationality law in order to qualify for a contract
15 described in this section.

16 (c) The department is not required to solicit donations for the
17 California Universal Representation Trust Fund.

18 SEC. 6. The provisions of this act are severable. If any
19 provision of this act or its application is held invalid, that invalidity
20 shall not affect other provisions or applications that can be given
21 effect without the invalid provision or application.

22 SEC. 7. The sum of twelve million dollars (\$12,000,000) is
23 hereby appropriated from the General Fund to the State Department
24 of Social Services for the purposes of implementing this act.

25 SEC. 8. This act is an urgency statute necessary for the
26 immediate preservation of the public peace, health, or safety within
27 the meaning of Article IV of the California Constitution and shall
28 go into immediate effect. The facts constituting the necessity are:

29 In order to ensure Californians' due process rights are protected
30 by providing better access to counsel prior to the federal
31 government's expected expansion of deportation policies, which
32 will have a significant impact on California's population, it is
33 necessary that this bill take effect immediately.