

# The SHIELD Act of 2026 (H.R. 3101/S.4142) Summary

The Securing Help for Immigrants Through Education and Legal Development (SHIELD) Act of 2026 (H.R.3101/S.4142) will cultivate a strong and sustainable immigrant legal defense field by creating a grant program that supports recruitment, training, retention, and development of staff and resources.

## Background

Amid escalating enforcement and continued attacks on due process, the United States simultaneously faces millions of pending immigration cases and a shortage of immigration legal professionals.<sup>1</sup> Without sustained investment in legal services, cities and states cannot keep pace with the overwhelming need of community members seeking a chance to defend their rights in immigration court. The SHIELD Act addresses this urgent need by strengthening the nationwide legal service infrastructure, helping safeguard due process, promote stability, and bring greater fairness and accountability to the immigration system.

## Summary

The SHIELD Act will:

- Allocate \$100 million for a grant program to develop a legal services workforce scaled to meet the representation needs of people facing deportation, with long-term capacity to provide high-quality, comprehensive, and linguistically appropriate legal services
- Provide four-year renewable competitive grants through the Department of Justice's Office of Access to Justice to state and local governments, nonprofits, and educational institutions
- Prioritize support for preexisting state and local programs needing additional funding for sustainability, and also focus on underserved areas where state and local investments are scarce despite substantial need

The SHIELD Act reflects our vision for the U.S. Department of Justice as a guardian of due process that strengthens access to counsel, operates independently through its Office of Access to Justice, and invests in community-based legal services to close critical representation gaps.

## Legislative Outline

### Section 1: Short Title

### Section 2: Definitions

### Section 3: Bill Rationale

This section sets out the acute need to grow the country's legal services infrastructure to address the unmet need for representation.

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<sup>1</sup> Edgar Sandoval, "A New Challenge for Asylum Seekers: Lawyer Shortages," *New York Times*, May 19, 2024, <https://www.nytimes.com/2024/05/19/us/migrants-lawyer-shortages.html>; and Transaction Records Access Clearinghouse (TRAC) Immigration, "Too Few Immigration Attorneys: Average Representation Rates Fall from 65% To 30%" January 24, 2024, <https://perma.cc/C2HY-2NSU>.

- Unlike in the criminal legal system, people in immigration proceedings who face losing their liberty (through detention) and removal from their home and family (through deportation) do not have the right to an attorney if they cannot afford one.
- As a result, most people in removal proceedings, including an estimated 80 percent of people in detention during deportation cases, are unrepresented and forced to navigate the complexities of immigration law alone against trained government prosecutors.<sup>2</sup>
- The consequences of detention or deportation are devastating, including possible loss of liberty, denial of lawful immigration status or United States citizenship, loss of livelihood, separation from and inability to support family, and life-threatening danger in the country of origin.
- Immigration enforcement disproportionately impacts Black immigrants and reinforces systemic racism.<sup>3</sup>
- In the long term, the federal government must act to address the significant unmet need for legal defense in the federal immigration system by passing the Fairness to Freedom Act of 2025, which would create a universal right to federally funded representation for anyone facing deportation who cannot afford to hire private counsel.
- To meet the present moment and eventually enable implementation of the Fairness to Freedom Act, the United States must immediately build the infrastructure to maintain a highly skilled and sustainable legal defense workforce equipped with the tools to implement high-quality, independent legal representation regardless of the individual's ability to pay, prior contact with the criminal legal system, or the nature or perceived strength of their legal defense.

#### **Section 4: Immigration Legal Services Staff and Infrastructure Development Program**

This section establishes a program under the attorney general's office, through the Office of Access to Justice, to award competitive grants aimed at developing workforce capacity and infrastructure for providing legal representation to individuals facing deportation. It outlines eligibility criteria for entities to receive grants, the application process, permissible uses of funds, and reporting requirements for grant recipients.

- **Authority and Purpose:** The attorney general, through the director of the Office of Access to Justice, is authorized to award competitive workforce development and capacity-building grants to expand access to legal representation for individuals facing deportation by increasing the workforce and strengthening the infrastructure needed for such legal services.
- **Eligibility Criteria:** The eligible entities are state or local governments allocating public funds for immigration-related legal services, community-based organizations, nonprofit organizations, and educational institutions that provide or coordinate services, or recruit, train, or mentor individuals in the immigration legal services field.
- **Application Process:** Eligible entities must submit an application to the director of the Office of Access to Justice.
- **Use of Funds:** Funds shall be used to develop a workforce scaled to meet national representation needs and to enhance long-term capacity to provide high-quality, holistic, and

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<sup>2</sup> Vera Institute of Justice, "Immigration Court Legal Representation Dashboard," accessed June 14, 2024, <https://www.vera.org/ending-mass-incarceration/reducing-incarceration/detention-of-immigrants/advancing-universal-representation-initiative/immigration-court-legal-representation-dashboard>. To get the number of unrepresented detained cases, filter to "All Cases Since FY2001."

<sup>3</sup> Juliana Morgan-Trostle, Kexin Zheng, and Carl Lipscombe, *The State of Black Immigrants: Part I: A Statistical Portrait of Black Immigrants in the United States and Part II: Black Immigrants in the Mass Criminalization System* (New York: NYU Law Immigrant Rights Clinic and Black Alliance for Just Immigrants, 2022), <http://perma.cc/WM8H-HBTZ>.

linguistically appropriate legal services, including: workforce recruitment and training programs, technical assistance, local or regional coordination services, retention improvement strategies, diversity recruitment, and expansion of legal services infrastructure and resources in underserved areas.

- **Conditions (certification and reporting):** Recipients must certify that fund usage aligns with section requirements and criteria set by the attorney general and director of the Office of Access to Justice. They must also submit annual reports detailing service provision, recruitment and retention, organizational impact, expenditures, outcomes, and continued unmet needs for representation in their service area.
- **Contracts and Subawards:** Allows recipients to use the funds to make subawards to a community-based organization, nonprofit organization, private organization, educational institution, or unit of local government.
- **Grant Term (duration):** Four years and may be renewed.
- **Supplement of Non-Federal Funds:** Federal funds provided under this section must supplement, not replace, existing federal or non-federal funding available for the activities funded by the grants.

## **Section 5: Authority and Duties of the Administering Agency**

This section outlines the responsibilities of the director of the Office of Access to Justice in administering the grant program, including establishing grant procedures, targeting grants to achieve specific objectives, and ensuring the independent implementation of the act's provisions.

- **Duties of the Director (regulatory authority):** The director of the Office of Access to Justice is authorized to promulgate rules, policies, and procedures necessary to implement the grant program, including **distributing grants** to achieve specific objectives and priorities, such as:
  - developing a legal services workforce capable of providing independent legal defense for individuals facing deportation and ensuring high-quality representation regardless of financial status, prior conviction or arrest history, or case complexity;
  - building a national legal services infrastructure that meets the representation needs of all individuals facing deportation;
  - supporting long-term organizational and programmatic growth to deliver high-quality, holistic, and linguistically appropriate legal services;
  - financially assisting state and local governments that have pioneered and developed expertise in publicly funded legal defense for individuals facing deportation; and
  - addressing the representation crisis in geographic areas lacking publicly funded legal defense programs.
- **Independent Implementation**
  - Independent Authority: The attorney general, through the director of the Office of Access to Justice, will independently execute the authority under this act, prioritizing increased access to representation for individuals facing deportation, without regard to other federal immigration enforcement priorities.

## **Section 6: Reports and Accountability**

This section requires grantees to submit reports on the effectiveness of activities funded by the grants and establishes accountability provisions, including audit requirements, nonprofit agency requirements, limitations on conference expenditures, and an annual certification process overseen by the attorney general.

## **Section 7: Authorization of Appropriations**

This section authorizes the appropriation of \$100 million for each of Fiscal Year 2027 and Fiscal Year 2028 to carry out the provisions of the act.