

119TH CONGRESS  
1ST SESSION

# S. 1201

To amend the Immigration and Nationality Act to provide for claims of ineffective assistance of counsel in immigration matters, and for other purposes.

---

## IN THE SENATE OF THE UNITED STATES

MARCH 31, 2025

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

---

## A BILL

To amend the Immigration and Nationality Act to provide for claims of ineffective assistance of counsel in immigration matters, and for other purposes.

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 TITLE.**

4       This Act may be cited as the “Strengthening Immi-  
5       gration Procedures Act of 2025”.

6       **SEC. 2. FINDINGS; PURPOSE.**

7       (a) FINDINGS.—Congress makes the following find-  
8       ings:

1           (1) Consistent with the Fifth Amendment to  
2           the Constitution of the United States, an alien has  
3           the right to effective counsel in removal proceedings  
4           and in pursuing applications for discretionary and  
5           nondiscretionary immigration relief and benefits in  
6           the United States.

7           (2) Effective counsel must be competent counsel  
8           if it is to be meaningful, and aliens do not always  
9           receive effective counsel.

10          (3) Board of Immigration Appeals precedent  
11          and Department of Justice and Department of  
12          Homeland Security policy has been interpreted to re-  
13          quire aliens who have been victims of ineffective as-  
14          sistance of counsel, to file official complaints with  
15          State bar associations before seeking further relief  
16          under the immigration laws (as defined in section  
17          101(a) of the Immigration and Nationality Act (8  
18          U.S.C. 1101(a))).

19          (4) A mandatory filing of a bar complaint is  
20          unique to the application of immigration laws.

21          (5) Consequently, such requirement—

22                  (A) has had a chilling effect on immigra-  
23          tion attorneys;

1 (B) acts as a barrier to access to counsel  
 2 for aliens in need of representation in immigra-  
 3 tion matters; and

4 (C) results in additional obstacles aliens  
 5 must overcome to access a full and fair process  
 6 in immigration proceedings.

7 (6) In every other matter, the standard set  
 8 forth in *Strickland v. Washington*, 466 U.S. 668  
 9 (1984), is the standard used to assess an ineffective  
 10 assistance of counsel claim; therefore, the same  
 11 standard should apply to immigration matters.

12 (b) PURPOSE.—The purpose of this Act is to set forth  
 13 a procedure and associated standards for the evaluation  
 14 of ineffective assistance of counsel claims in immigration  
 15 matters.

16 **SEC. 3. CLAIMS OF INEFFECTIVE ASSISTANCE OF COUNSEL**  
 17 **IN IMMIGRATION MATTERS.**

18 (a) IN GENERAL.—Chapter 9 of title II of the Immi-  
 19 gration and Nationality Act (8 U.S.C. 1351 et seq.) is  
 20 amended by adding at the end the following:

21 **“SEC. 295. CLAIMS OF INEFFECTIVE ASSISTANCE OF COUN-**  
 22 **SEL.**

23 “(a) IN GENERAL.—With respect to any immigration  
 24 matter, an alien may raise a claim of ineffective assistance  
 25 of counsel based on a claim that—

1 “(1) the performance of the alien’s prior coun-  
 2 sel with respect to such immigration matter was de-  
 3 ficient; and

4 “(2) such deficient performance prejudiced the  
 5 immigration proceeding.

6 “(b) DEFINITIONS.—In this section:

7 “(1) IMMIGRATION MATTER.—The term ‘immi-  
 8 gration matter’ means, any stage of an exclusion,  
 9 deportation, or removal proceeding, including a col-  
 10 lateral matter, a motion to reopen or reconsider, and  
 11 any matter concerning an alien pending before the  
 12 Secretary of Homeland Security or the Attorney  
 13 General.

14 “(2) PREJUDICE.—The term ‘prejudice’ means,  
 15 with respect to counsel of an alien, the errors of  
 16 such counsel were so serious as to deprive the alien  
 17 of a fair immigration proceeding.”.

18 (b) CLERICAL AMENDMENT.—The table of contents  
 19 for the Immigration and Nationality Act (8 U.S.C. 1101  
 20 et seq.) is amended by inserting after the item relating  
 21 to section 294 the following:

“Sec. 295. Claims of ineffective assistance of counsel.”.

22 (c) EFFECTIVE DATE.—The amendment made by  
 23 this section shall apply with respect to any immigration  
 24 case or proceeding regardless of whether such case or pro-  
 25 ceeding is—

1           (1) pending as of the date of the enactment of  
2    this Act;

3           (2) commenced after such date of enactment; or

4           (3) fully adjudicated before such date of enact-  
5    ment.

○