

## ACCESS TO COUNSEL ACT OF 2021

### SECTION-BY-SECTION ANALYSIS

*Sec. 1. Short Title.* Section 1 sets forth the short title of the bill as the “Access to Counsel Act of 2021”.

*Sec. 2. Access to Counsel and Other Assistance at Ports of Entry and During Deferred Inspection.*

*Section (2)(a)* amends section 235 of the INA to create a new subsection (e).

New subsection (e)(1) requires the Secretary of Homeland Security to ensure that “covered individuals” have a meaningful opportunity to consult with counsel or an interested party during the inspection process.

New subsection (e)(2) sets forth the scope of such access, requiring the Secretary to ensure that individuals are permitted to consult with counsel or interested parties not later than one hour after secondary inspection commences and through the end of the inspection process. Counsel and interested parties shall be allowed to advocate on behalf of the covered individual and provide supporting documentation and other information to the Customs and Border Protection (CBP) inspecting officer. CBP shall, to the greatest extent practicable, accommodate a request for counsel or an interested party to appear in-person at the secondary or deferred inspection site.

New subsection (e)(3) provides extra protection for lawful permanent residents (LPRs) by prohibiting the Secretary of Homeland Security from accepting a Record of Abandonment of Lawful Permanent Resident Status (Form I-407) from an LPR without providing the LPR with a reasonable opportunity to consult with counsel. The Secretary may, however, accept such form if the LPR waives the opportunity to seek advice from counsel in writing.

New subsection (e)(4) defines the terms “counsel,” “covered individual,” and “interested party”.

*Section (2)(b)* establishes the effective date as 180 days after the enactment of the Act.

*Section (2)(c)* clarifies that nothing in the Act may be construed to limit a pre-existing right to counsel or right to appointed counsel under the INA or any other provision of law, including a court order.