

**AMENDMENT TO THE AMENDMENT IN THE  
NATURE OF A SUBSTITUTE TO H.R. 391  
OFFERED BY M.V. JOHNSON (GA)**

Strike section 2 and insert the following:

1 **SEC. 2. CLARIFICATION REGARDING THE AUTHORITY OF**  
2 **THE ATTORNEY GENERAL TO APPOINT COUN-**  
3 **SEL TO ALIENS IN IMMIGRATION PRO-**  
4 **CEEDINGS.**

5 (a) IN GENERAL.—Section 292 of the Immigration  
6 and Nationality Act (8 U.S.C. 1362) is amended—

7 (1) by striking “In any” and inserting the fol-  
8 lowing:

9 “(a) IN GENERAL.—In any”;

10 (2) by striking “he shall” and inserting “the  
11 person shall”; and

12 (3) by adding at the end the following:

13 “(b) COUNSEL NOT REQUIRED TO BE PROVIDED.—

14 Except as provided in subsection (c), the Government is  
15 not required to provide counsel to aliens under subsection

16 (a). However, the Attorney General may, in the Attorney  
17 General’s sole and unreviewable discretion, appoint or pro-

18 vide counsel to aliens in immigration proceedings con-  
19 ducted under section 240 of this Act.

1           “(c) APPOINTMENT OF COUNSEL FOR ALIEN CHIL-  
2 DREN, ALIENS WITH A SERIOUS MENTAL DISABILITY,  
3 AND CERTAIN OTHER ALIENS.—Notwithstanding sub-  
4 section (b), the Attorney General shall appoint counsel,  
5 at the expense of the Government if necessary, to rep-  
6 resent an alien in a removal proceeding who has been de-  
7 termined by the Secretary to be an alien child, is unable  
8 to represent himself or herself due to a serious mental dis-  
9 ability that would be included in section 3(1) of the Ameri-  
10 cans with Disabilities Act of 1990 (42 U.S.C. 12102(1)),  
11 or is particularly vulnerable, such that the appointment  
12 of counsel is necessary to help ensure fair resolution and  
13 efficient adjudication of the proceedings.”.

14           (b) APPOINTMENT OF COUNSEL IN CERTAIN CASES;  
15 RIGHT TO REVIEW CERTAIN DOCUMENTS IN REMOVAL  
16 PROCEEDINGS.—Section 240(b) of the Immigration and  
17 Nationality Act (8 U.S.C. 1229a(b)) is amended—

18           (1) in paragraph (4)—

19                   (A) by redesignating subparagraphs (B)  
20                   and (C) as subparagraphs (C) and (D), respec-  
21                   tively;

22                   (B) in subparagraph (A), by striking “, at  
23                   no expense to the Government,”;

24                   (C) by inserting after subparagraph (A)  
25                   the following new subparagraph:

1           “(B) the alien shall, at the beginning of  
2           the proceedings or at a reasonable time there-  
3           after, automatically receive a complete copy of  
4           all relevant documents in the possession of the  
5           Department of Homeland Security, including all  
6           documents (other than documents protected  
7           from disclosure by privilege, including national  
8           security information referenced in subparagraph  
9           (C), law enforcement sensitive information, and  
10          information prohibited from disclosure pursuant  
11          to any other provision of law) contained in the  
12          file maintained by the Government that in-  
13          cludes information with respect to all trans-  
14          actions involving the alien during the immigra-  
15          tion process (commonly referred to as an ‘A-  
16          file’), and all documents pertaining to the alien  
17          that the Department of Homeland Security has  
18          obtained or received from other government  
19          agencies, unless the alien waives the right to re-  
20          ceive such documents by executing a knowing  
21          and voluntary waiver in a language that he or  
22          she understands fluently;” and

23                   (D) by adding at the end the following:

24           “‘The Government is not required to provide counsel  
25 to aliens under this paragraph. However, the Attorney

1 General may, in the Attorney General's sole and  
2 unreviewable discretion, appoint or provide counsel at gov-  
3 ernment expense to aliens in immigration proceedings.”;  
4 and

5 (2) by adding at the end the following new  
6 paragraph:

7 “(8) FAILURE TO PROVIDE ALIEN REQUIRED  
8 DOCUMENTS.—In the absence of a waiver under sub-  
9 paragraph (B) of paragraph (4), a removal pro-  
10 ceeding may not proceed until the alien has received  
11 the documents required to be provided to the alien  
12 under such subparagraph.”.

13 (c) FUNDING.—There shall be appropriated such  
14 sums as may be necessary to carry out this section and  
15 the amendments made by this section.

