

AN ORDINANCE BY COUNCILMEMBERS NATALYN M. ARCHIBONG AND ANTONIO BROWN AMENDING CHAPTER 62, (COURTS), ARTICLE II, (MUNICIPAL COURT), DIVISION I, (GENERALLY), SECTION 62-29, (PUBLIC DEFENDER AND ASSISTANT), OF THE CITY OF ATLANTA CODE OF ORDINANCES, IN ORDER TO AUTHORIZE THE PUBLIC DEFENDER TO PROVIDE LEGAL REPRESENTATION TO CRIMINAL DEFENDANTS WITH PENDING PROCEEDINGS IN THE ATLANTA IMMIGRATION COURT; TO AUTHORIZE THE PUBLIC DEFENDER TO PROMULGATE ADMINISTRATIVE RULES RELATED TO THE REPRESENTATION OF INDIVIDUALS IN THE ATLANTA IMMIGRATION COURT, INCLUDING, BUT NOT LIMITED TO, RULES GOVERNING THE SELECTION OF INDIVIDUALS TO RECEIVE THESE SERVICES; AND FOR OTHER PURPOSES.(REFERRED BACK TO PUBLIC SAFETY AND LEGAL ADMINISTRATION BY ATLANTA CITY COUNCIL 9/16/19)

WHEREAS, pursuant to Section 62-29 of the City of Atlanta Code of Ordinances, (Public Defender and Assistant), the public defender of the municipal court is authorized to represent and provide legal services to indigent defendants who are tried in the municipal court;

WHEREAS, Section 62-29 also authorizes the public defender to provide legal services to indigent defendants who appear before the municipal court for commitment purposes, including all necessary pretrial preparation and interviews; and

WHEREAS, additionally, Section 62-29 authorizes the public defender to aid with jail discharge planning, and assistance with the coordination of social service for defendants; and

WHEREAS, Section 62-29 also ensures the public defender can provide legal services to all persons detained in City of Atlanta detention facilities in furtherance of the public defender's holistic representation model; and

WHEREAS, state law provides at OCGA § 50-36-1(b) that municipalities must verify the lawful presence in the United States under federal immigration law of any applicant for public benefits; and

WHEREAS, however, the description of public benefits contained in OCGA § 50-36-1(a)(1), which includes 27 separate benefits, does not include the provision of legal services as a benefit subject to the requirements of OCGA § 50-36-1; and

WHEREAS, this omission is consistent with public policy expressed in state law which expressly exempts attorneys or employees of attorneys for representing a criminal defendant from the prohibition contained in OCGA § 50-36-2, which prevents

municipalities from accepting, relying upon, or utilize an identification document for any official purpose that requires the presentation of identification by such agency or political subdivision or by federal or state law unless it is a secure and verifiable document, See OCGA § 50-36-2(b), (c), (f)(g); and

WHEREAS, the omission of legal services in the description of public benefit contained in OCGA § 50-36-1(a)(1), is also consistent with public policy expressed in state law which exempts "legal advice, recommending a specific course of legal action, or providing any other assistance that requires legal analysis, legal judgement, or the interpretation of the law", from the definition of "immigration assistance" which may not be provided by a person within the state of Georgia without holding a license issued by the state as an immigration assistance provider, See OCGA §§ 40-20A-2, 40-20A-4; and

WHEREAS, in accordance with these provisions of state law, the City is authorized to provide legal representation to criminal defendants regardless of whether the City is able to verify the lawful presence in the United States Under federal immigration law of such defendants; and

WHEREAS, it is the desire of the City of Atlanta to authorize the public defender to provide legal representation to criminal defendants with pending proceedings in the Atlanta Immigration Court, and to authorize the public defender to promulgate administrative rules related to such representation which shall include, but shall not be limited to, rules governing the selection of individuals to receive these services.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ATLANTA, GEORGIA AS FOLLOWS:

SECTION 1: That Chapter 62, Article II, Division 1, Section 62-29(b) of the City of the City of Atlanta Code of Ordinances be amended so that it shall read as follows (with permanent additions in underline font and permanent deletions in strikethrough font):

Sec. 62-29. - Public defender and assistant.

(b) The duties of the public defender of the municipal court shall be the representation of, and the provision of legal services to, indigent defendants who are tried in the municipal court and the representation of, and provision of legal services to, indigent defendants who appear before the municipal court for commitment purposes, including all necessary pretrial preparation and interviews. In addition, the public defender is authorized to: provide legal services to indigent defendants who are detained in City of Atlanta detention facilities; provide legal representation to criminal defendants with pending proceedings in the Atlanta Immigration Court, and promulgate administrative rules related to the representation of criminal defendants with pending proceedings in the Atlanta Immigration Court which shall include, but shall not be limited to, rules governing the selection of individuals to receive these services; provide assistance with jail discharge planning; assist with coordination of social services for defendants; and apply for grant funding on behalf of the city to support these efforts, pursuant to the city's Procurement Code.

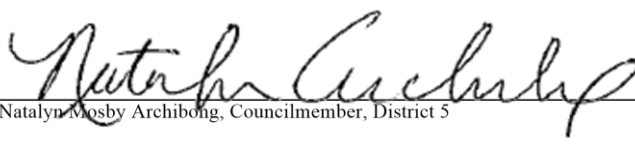
SECTION 2: That this Ordinance shall take effect immediately upon its approval.

SECTION 3: That all ordinances and parts of ordinances in conflict herewith are hereby waived only to the extent of the conflict.

**CITY COUNCIL
ATLANTA, GEORGIA**

19-O-1486

SPONSOR SIGNATURES


Natalyn Mosby Archibong, Councilmember, District 5


Antonio Brown, Councilmember, District 3

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Workflow List:

Clerk of Council	Completed	08/20/2019 11:12 AM
Public Safety & Legal Administration Committee	Completed	08/27/2019 3:00 PM
Atlanta City Council	Completed	09/03/2019 1:00 PM
Atlanta City Council	Completed	08/19/2019 1:00 PM
Mayor's Office	Pending	
Public Safety & Legal Administration Committee	Pending	09/24/2019 3:00 PM

HISTORY:

08/19/19 Atlanta City Council REFERRED WITHOUT OBJECTION

RESULT:	REFERRED WITHOUT OBJECTION
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08/27/19 Public Safety & Legal Administration Committee FAVORABLE

RESULT:	FAVORABLE [3 TO 2]	Next: 9/3/2019 1:00 PM
MOVER:	Antonio Brown, District 3	
SECONDER:	Andrea L Boone, District 10	
AYES:	Andrea L Boone, Marci Collier Overstreet, Antonio Brown	
NAYS:	JP Matzigkeit, Howard Shook	
ABSTAIN:	Dustin Hillis	
ABSENT:	Andre Dickens	

09/03/19 Atlanta City Council TABLED Next:
09/16/19

RESULT: **TABLED [12 TO 2]** **Next: 9/16/2019 1:00 PM**
MOVER: Dustin Hillis, Councilmember, District 9
SECONDER: Matt Westmoreland, Councilmember, Post 2 At Large
AYES: Bond, Westmoreland, Dickens, Smith, Farokhi, Ide, Shook, Matzigkeit, Hillis, Boone, Overstreet, Sheperd
NAYS: Antonio Brown, Natalyn Mosby Archibong
AWAY: Cleta Winslow

RESULT: **REFERRED TO COMMITTEE [13 TO 0]** **Next: 9/24/2019 3:00 PM**
MOVER: Dustin Hillis, Councilmember, District 9
SECONDER: Marci Collier Overstreet, Councilmember, District 11
AYES: Westmoreland, Dickens, Smith, Farokhi, Brown, Winslow, Archibong, Ide, Shook, Matzigkeit, Hillis, Boone, Overstreet
AWAY: Michael Julian Bond, Joyce M Sheperd

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VOTE RECORD - ORDINANCE 19-O-1486							
<input type="checkbox"/> ADOPTED <input type="checkbox"/> ADVERSED <input type="checkbox"/> FAVORABLE <input type="checkbox"/> ACCEPTED AND FILED <input type="checkbox"/> FIRST READING <input type="checkbox"/> SECOND READING <input type="checkbox"/> THIRD READING <input type="checkbox"/> FOURTH READING <input type="checkbox"/> FIFTH READING <input checked="" type="checkbox"/> REFERRED TO COMMITTEE <input type="checkbox"/> HELD IN COMMITTEE <input type="checkbox"/> TABLED <input type="checkbox"/> DEFERRED <input type="checkbox"/> RECONSIDERED <input type="checkbox"/> FILED <input type="checkbox"/> ADOPTED AS AMENDED <input type="checkbox"/> AMENDED <input type="checkbox"/> ACCEPTED <input type="checkbox"/> SUBSTITUTED <input type="checkbox"/> AMENDED SUBSTITUTE <input type="checkbox"/> FILED BY COMMITTEE <input type="checkbox"/> REFERRED TO ZRB AND ZC <input type="checkbox"/> REFERRED WITHOUT OBJECTION <input type="checkbox"/> ADOPTED ON SUBSTITUTE <input type="checkbox"/> ADOPTED SUBSTITUTE AS AMENDED <input type="checkbox"/> FORWARDED WITH NO RECOMMENDATI <input type="checkbox"/> REFERRED TO SC <input type="checkbox"/> FILED WITHOUT OBJECTION <input type="checkbox"/> FAILED <input type="checkbox"/> FORWARDED TO FC/NQ							
			YES/AYE	NO/NAY	ABSTAIN	ABSENT	
	MICHAEL JULIAN BOND	VOTER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AWAY
	MATT WESTMORELAND	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	ANDRE DICKENS	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	CARLA SMITH	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	AMIR R FAROKHI	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	ANTONIO BROWN	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	CLETA WINSLOW	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	NATALYN MOSBY ARCHIBONG	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	JENNIFER N IDE	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	HOWARD SHOOK	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	JP MATZIGKEIT	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	DUSTIN HILLIS	MOVER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
	ANDREA L BOONE	VOTER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>
MARCI COLLIER OVERSTREET	SECONDER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/>	
JOYCE M SHEPERD	VOTER	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>		AWAY	

<input type="checkbox"/> FAVORABLE ON SUBSTITUTE <input type="checkbox"/> FAVORABLE/SUB/AMENDED <input type="checkbox"/> FAVORABLE/SUB/AMND/COND <input type="checkbox"/> FAVORABLE/AMND/COND <input type="checkbox"/> FAVORABLE AS AMENDED <input type="checkbox"/> RETURNED AS HELD <input type="checkbox"/> FAVORABLE ON CONDITION <input type="checkbox"/> FAVORABLE/SUB/CONDITION <input type="checkbox"/> QUADRENNIALY TERMINATED <input type="checkbox"/> QUESTION CALLED <input type="checkbox"/> ROUTED TO COW <input type="checkbox"/> SUSTAINED <input type="checkbox"/> OVERRIDEN <input type="checkbox"/> NOT ACCEPTED BY COMMITTEE <input type="checkbox"/> SUSTAINED W/O OBJECTION <input type="checkbox"/> TABLED W/O OBJECTION <input type="checkbox"/> HELD IN COW	
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[Unanimous]

Certified by Presiding Officer	Certified by Clerk
<p>Mayor's Action</p> <p><i>See Authentication Page Attachment</i></p>	