

TESTIMONY ON SB317, ON THE RIGHT TO COUNSEL IN IMMIGRATION
PROCEEDINGS
FOR THE JANUARY 27 HEARING OF THE JUDICIAL PROCEEDINGS COMMITTEE
POSITION: FAVORABLE

SUBMITTED BY

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I strongly support SB317 as introduced by Senator Hettleman. This bill is a simple matter of fairness and decency.

“Justice for all” cannot mean “justice for those who can afford an attorney.” Since 1938 for federal defendants and 1963 for state defendants, the U.S. Supreme Court has recognized that the U.S. Constitution requires that people facing criminal charges must be provided with legal assistance if they are unable to obtain it on their own. The right to counsel is “one of the safeguards...deemed necessary to insure fundamental human rights of life and liberty.”

The fact that the right to counsel does not currently extend to immigrants facing deportation proceedings because those proceedings are considered civil, rather than criminal, actions is an obscene technicality. It does not need saying that being forced to leave a country where one has lived for years, if not decades, and in many cases leaving behind children and other family members, is a severe deprivation of liberty. And for people who face real risks of violence or persecution in their country of origin, deportation may mean deprivation of life itself.

The right to counsel in deportation proceedings is not simply a procedural nicety: it has measureable practical consequences. Immigration law is complex, so of course most immigrants cannot adequately defend themselves, particularly if they are not fluent in English. Thus, it is hardly surprising that immigrants represented by counsel are **10 times** more likely to win their cases, according to a nationwide study! Representation also reduces time spent in detention and increases efficiency in resolving cases.

Some might argue that Maryland cannot afford to guarantee the right to counsel for indigent immigrants. I have two responses. First, given the scale of the problem—the number of Maryland residents facing deportation proceedings at any one time—I’m sure that the analysis of the Department of Legislative Services will show that the costs of SB317 would be a minuscule fraction of Maryland’s budget. Second, the test of a decent society is how it treats its most vulnerable members. Maryland must not address its budgetary challenges by skimping on the needs of the poor—whether U.S. citizens or immigrants seeking a better life in our state.

Universal representation programs in Baltimore City and Prince George’s County are already transforming the lives of immigrants and their families in those jurisdictions. It is time for the state as a whole to follow suit.

Thank you for your attention.