

Written Testimony IN SUPPORT of
Senate Bill 317 for Universal Representation

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The Judicial Proceedings Committee is undoubtedly aware that the Biden Administration has ordered a series of changes within the immigration system to reverse some of the more dangerous and inhumane practices of the last four years. The immigration clinic applauds the new administration's efforts, like memorandum to "preserve and fortify" the Deferred Action for Childhood Arrivals (DACA) program and the introduction of the U.S. Citizenship Act of 2021, which would give our nation's immigration system a much-needed overhaul. However, these actions do not go far enough to address fundamental issues within our immigration system, and the state of Maryland can and should do more for its residents to ensure that they have access to representation to ensure a just outcome to their immigration proceedings.

For the past 17 years, the immigration clinic has represented Marylanders in the Baltimore Immigration Court, offering a critical but insufficient stopgap. The work of the clinic brings us into contact with all local immigration government bodies with jurisdiction over Maryland residents, including the Baltimore Immigration Court, Baltimore ICE, the Baltimore Office of Chief Counsel, and U.S. Citizenship and Immigration Services, which handles immigration petitions and applications. The Clinic has also represented many detained people and has therefore had a lot of contact with the local Maryland jails that house ICE detainees in Frederick, Howard, and Worcester counties.

For every community member that the immigration clinic represents, there are many more that need access to representation to navigate the byzantine immigration process. While the Biden Administration has the potential to end some of the harshest policies of its predecessor, past Democratic administrations have demonstrated that they are more than willing to enforce immigration laws and impose detention and deportation orders on those lacking access to due process. President Clinton deported over 12 million people, and President Obama, with then Vice President Biden at his side, was famously dubbed the "deporter in chief" by immigrant rights organizations.¹ History demonstrates that the change in administrations will not be enough to ensure fair and equitable outcomes within our immigration courts, and we must be proactive to protect our community members from future injustice.

¹ The Obama Record on Deportations: Deporter in Chief or Not?
<https://www.migrationpolicy.org/article/obama-record-deportations-deporter-chief-or-not>

Even if the Biden Administration's proposals are fully adopted and implemented, there will still be a critical need for the Maryland General Assembly to provide legal assistance to detained, indigent Marylanders who face deportation in immigration courts. None of the federal proposals offer universal representation, leaving the issue squarely within our state's purview. Because of changing requirements, the new laws will heighten the need for legal assistance to ensure that immigrants can adapt their claims to the new system. Furthermore, the proposed actions will not mitigate the inherent reality that those without representation are far less likely to succeed in their claims, regardless of merit.

Unrepresented detained individuals are more likely to request deportation simply because they cannot fill out a form. All applications must be submitted in English; for non-lawyers, this is a near impossible task to do in one's native language, let alone in a foreign one. Detained individuals who are not represented have no one to help them fill out the applications in English. The immigration clinic's recent bond observation project witnessed many individuals choose deportation because they could not fill out an application in English and had no legal representation.

Lawyers offer a critical line of defense to ensure that Maryland residents are not unjustly detained in ICE detention centers while they await their hearings. Although the Biden Administration seeks to change detention priorities, it is poised to continue detention practices, further underscoring the need for legal intervention to prevent costly detentions that drain state coffers. Because of the stress of detention, and the speed at which proceedings occur once someone is detained, people are four times less likely to win the right to remain with their families in the United States.² Additionally, the COVID-19 pandemic means that representation has potential life or death consequences for both detainees and correctional officers, with over 20 COVID-19 fatalities in Maryland facilities.³

The fact that Maryland does not provide a lawyer for people facing an immigration hearing short-circuits due process and is blind to a number of realities in our immigration system. First, many of those facing deportation are longtime legal permanent residents who have deep ties to our communities and often have U.S. citizen and legal resident families who rely on them. The hardships suffered by these family members reverberate through our communities long after a

² Access to Justice: Ensuring Counsel for Immigrants Facing Deportation in the D.C. Metropolitan Area https://populardemocracy.org/sites/default/files/DC_Access_to_Counsel_rev4_033117%20%281%29.pdf.

³ Maryland inmate coronavirus death toll increased to 17 as questions remain over state's vaccination schedule <https://www.baltimoresun.com/coronavirus/bs-md-coronavirus-inmate-deaths-pandemic-20201231-6ugs3gl6urconi6wkpf5z25u6m-story.html>, and Two more Maryland correctional officers died of COVID-19, union says while accusing state of downplaying scope of the problem <https://www.baltimoresun.com/news/crime/bs-md-ci-cr-coronavirus-prisons-cases-deaths-20210122-nbg2srqd5bds7custs7xz4uvqg-story.html>.

permanent resident is deported, creating burdens that unnecessarily hinder Maryland's potential. Each deported person represents one less consumer for local businesses, and one less taxpayer for the state treasury.

Second, the simple fact of having a lawyer does not guarantee that an immigrant will be able to avoid deportation, but it does give the individual a fair shot. Immigration judges represent an important – and the appropriate – layer of protection for our communities. An individual with a lawyer has a fair opportunity to present their case to the judge, but the judge still gets to decide whether the person represents a danger to the community and should be deported, or whether factors such as family hardship, the age of a conviction, or evidence of genuine rehabilitation weigh in favor of relief from deportation.

Third, lawyers help make the immigration system more efficient by fine tuning the application of existing statutes through legal precedent. Through their representation, lawyers have been able to establish precedent at the 4th Circuit level to make future interpretations of complex immigration statutes clearer. For instance, the decision in *Martinez v. Sessions* helped clarify uncertainty between interpretations of the Immigration and Nationality Act and Maryland statutes related to theft. Because of this, immigration judges can operate with greater efficiency in properly applying immigration statutes as intended.

Here are two examples of clients the Clinic has represented who whose claims would have likely failed if they were forced to represent themselves without a lawyer. Anna Fritz⁴ was convicted many years prior of possession with intent to distribute because she lived in the house with her abusive, drug-dealing husband. The conviction was so old that DHS chose not to pursue her deportation for it during the Obama Administration. We advised her and helped her apply for naturalization, which was granted. She is now a United States Citizen. She has not had any further contact with the criminal justice system in the decades since her conviction.

Victor Krow, a legal permanent resident from Liberia, was convicted of felony assault on a police officer when he struggled with police who arrested him in the midst of a mental health crisis. At the time of his arrest, he was walking through traffic, talking to himself aloud, and banging on the hoods of people's cars. He was later diagnosed by a physician with a psychiatric disorder. He was a refugee who survived significant trauma in his wartorn home country, where he had no connections and would have been deported. Because he had the benefit of pro bono

⁴ *Names in this testimony have been changed to ensure confidentiality.

representation, he was able to remain in the United States and retain his legal permanent resident status.

The thing we know makes the biggest difference in complicated immigrant proceedings is having a lawyer. The need for legal representation in immigration court is critical to ensuring the success of meritorious claims. Decisions about who is deported should be made by the experts – immigration judges, who can make fair decisions after someone has a fair chance to present their case with the help of a lawyer.