



*Fighting for equal justice for all immigrants
at risk of detention and deportation*

www.caircoalition.org

1612 K Street, NW Suite 204
Washington, DC 20006

T 202 / 331.3320

F 202 / 331.3341

TESTIMONY IN SUPPORT OF SENATE BILL 317
Right to Counsel in Immigration Proceedings
January 27, 2021

Chairman Smith, Vice Chair Waldstreicher, and members of the Judicial Proceedings Committee,

I write to express my support of SB317, which provides legal representation to indigent Maryland residents detained in immigration proceedings. I express my support as a Maryland resident of District 43 and as a Managing Attorney at the Capital Area Immigrant Rights' Coalition.

The Majority of Detained Immigrants Do Not Have Legal Representation.

Detained immigrants in deportation proceedings do not have the right to a government-funded attorney, if they cannot afford to hire one themselves. The vast majority of detainees are low-income, struggle to afford private their own attorneys, and are held in jails far from most attorneys' offices. Even when the detained person has some money to pay for a lawyer, the remote location of the detention facilities increases the cost of representation so drastically and complicates logistics so significantly, that the cost becomes prohibitive, and private attorneys become reluctant to take on the cases. This means that most detained Maryland residents are forced to represent themselves, in a language they may not speak, or may not speak with ease, and navigate a notoriously complex legal system, all while held in jails, with no access to relevant documents, evidence, witnesses, or other things they might need to prepare a compelling case.

While immigration proceedings are technically civil, they are virtually indistinguishable from criminal proceedings: detained people are kept in the same jails as those facing a criminal trial or serving criminal sentences. Like people facing the most serious criminal cases, if detained people lose their case, they face permanent separation from family, and even death, if deported. Given the seriousness of the stakes, it is unconscionable that noncitizens are forced to represent themselves, only because a deportation proceeding has been technically categorized as civil. Currently, at least seven out of ten Marylanders detained by Immigration and Customs Enforcement (ICE) do not have access to legal representation in immigration proceedings. The consequences of this situation are dire. Without legal representation, unrepresented individuals have less than a one in ten chance of winning their case, even if their case has merit.

Deportation can be tantamount to a death sentence. Immigrants who have made Maryland their home have often fled countries where they suffered violence, persecution or torture. Deportation places these individuals in grave risk of harm or death.

ICE Detention and Deportation Harms Maryland Residents and Communities.

Each year, ICE detains an estimated 530 Maryland residents who face the threat of permanent separation from their family. When ICE detains a Maryland resident, it not only affects that individual, it also affects their spouses, children, parents, employers and community. More than 600 children in Maryland suffer the harsh impacts of having their parents detained each year.



*Fighting for equal justice for all immigrants
at risk of detention and deportation*

www.caircoalition.org

1612 K Street, NW Suite 204
Washington, DC 20006

T 202 / 331.3320
F 202 / 331.3341

As an immigration attorney, I have witnessed first-hand the devastation that immigration detention and deportation wrecks on an individual and their family. People detained by ICE are de-humanized and thrust into a confusing system and removed from their families, communities and livelihood. The majority of our clients have been primary income earners for their households. When they are jailed, their family suffers not only the emotional devastation of potentially permanently being separated from their loved one, but they are immediately thrust into the financial instability that accompanies that. When a primary income provider is jailed, their family goes without food, loses the ability to pay rent, and is often displaced. Additionally, employers and local businesses who lose their workforce to ICE detention are left to bear the turnover costs. Local governments also suffer from ICE detention when they lose tax revenue and end up needing to provide services to aid families left in crisis. Providing attorneys to Marylanders in ICE detention brings dignity and due process to immigration proceedings and helps guard against the injustices faced by detained immigrants facing deportation.

Universal Representation Has a Proven Track Record in Maryland

In Maryland, two local governments spearheaded deportation defense programs: Prince George's County and Baltimore City. Over the past three years, the Capital Area Immigrants' Rights Coalition has operated these programs in defense of residents of these two jurisdictions, with the support of Prince George's County, Baltimore City and our community partners such as CASA. Providing attorneys to detained immigrants has a proven track record of success here in Maryland, keeping our families together. Through these two local programs and with our partners, the CAIR Coalition has been able to reunify parents with their U.S. citizen children, obtain lawful status for long-time residents of Maryland and prevent the deportation of people to dangerous and life-threatening places. The video testimonials of formerly detained Marylanders submitted in support of SB 317 are clear: legal representation is literally a lifeline.

This bill is part of a national movement for universal representation to provide legal defense to those in detained deportation proceedings. Nationwide, there are over 40 jurisdictions that have launched similar programs. An individual with legal representation is on average ten times more likely to achieve a successful result in their immigration case.

Providing Attorneys to Detained Immigrants Benefits the Maryland Economy

Maryland is home to approximately 443,489 noncitizens, representing 7.3 percent of the state's population of 5,996,079.¹ An economic impact analysis submitted in support of SB 317 by CASA and the CAIR Coalition outlines the impact that legal representation will have on our statewide economy. Through the implementation of a statewide legal defense program housed within the Maryland Office of Public Defender, an estimated seventy-two percent of residents, or 382 individuals represented under this program would receive their desired legal outcome. An estimated fifty-nine percent of residents, or 313 individuals would have an outcome that allows them to remain in Maryland. Maryland employers would save an estimated \$1.77 million annually in turnover costs when their employees are saved from deportation. The impact of this program on Maryland's gross domestic product (GDP) for a single year under this program would be a gain of \$16.4 million for the state in 2021. The total gain in GDP for Maryland after ten years

¹ Economic Impact of Universal Representation Proposal in Maryland, Policy Brief.



CAPITAL AREA
IMMIGRANTS' RIGHTS
COALITION

*Fighting for equal justice for all immigrants
at risk of detention and deportation*

www.caircoalition.org

1612 K Street, NW Suite 204
Washington, DC 20006

T 202 / 331.3320

F 202 / 331.3341

would amount to \$178.9 million for full representation statewide. Providing attorneys to detained immigrants leads to improved outcomes for those immediately impacted and their families, but also for our economy.

Access to Legal Representation is a Racial Justice Issue

In Maryland, 74.6% of immigrants are people of color. Immigrants of color are over policed, over charged and over convicted in the criminal legal system. These individuals are then funneled into deportation proceedings where they are essentially re-tried and punished again, having their criminal histories held against them. This bill is necessary to ensure that immigrants of color who are at the intersection of the criminal justice and immigration system have the basic due process right of legal representation.

The COVID-19 Pandemic Reveals That Legal Representation is Essential to Protect Detained Immigrants

The impact of the COVID-19 pandemic reveals that legal representation is essential to protect detained immigrants. Outbreaks of COVID-19 in ICE detention facilities across the country this past year have only exacerbated an already dismal reality of immigration detention. Detained immigrants are confronted with an impossible choice, remain detained and risk contracting COVID-19 while they challenge their deportation charges, or waive their right to pursue deportation relief in order to avoid exposure to a life-threatening virus.

This Bill is Necessary Even under a Biden-Harris Administration

Although the federal executive branch dictates immigration policy to a large extent, there is nothing to suggest that the new administration will end or even reduce immigration detention and deportation. The system of immigration detention has been expanding for decades and the new administration is unable to singlehandedly dismantle the statutory framework that allows for ICE detention and deportation. Only the federal Congress can fundamentally change the legal immigration framework and congressional immigration reform has not materialized in nearly thirty years. However, the State of Maryland *can* intervene where the federal government seems unable to do so and help protect Maryland families by providing lawyers who will greatly increase the chances that those detained by ICE will succeed in making their case that they should be allowed to stay by passing SB 317.

For all of the foregoing reasons I respectfully request your support SB 317.

Sincerely,

Eric A. Lopez
Managing Attorney
Capital Area Immigrants' Rights Coalition
eric@caircoalition.org
T 202-899-1424
F 202-331-3341