

Written Testimony IN SUPPORT of

Senate Bill 129 for Universal Representation

Maureen A. Sweeney, Director & Gabriela Quercia Kahrl, Associate Director

Chacón Center for Immigrant Justice

University of Maryland Carey Law School

The Chacón Center for Immigrant Justice unequivocally supports SB 129, a bill that would ensure that Marylanders in deportation proceedings have legal representation in deportation proceedings; poverty should not be the reason a person is deported and separated from their family. The Senate 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 Chacón Center (“Center”) applauds the new administration’s efforts. 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. Maryland detainees, regardless of where they will be detained, will need attorneys to help them, so that they may be reunited with their families in Maryland once again.

For approximately 20 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.

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 power to affect immigration enforcement, it has not taken steps to end many of the harshest policies of its predecessor, and 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>

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There is a critical need for the Maryland General Assembly to provide legal assistance to detained, indigent Marylanders who face deportation in immigration courts. 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 Center's 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. The Biden Administration has continued detention practices. Because of the stress of detention, and the speed at which proceedings occur once someone is detained, people in detention 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 officers³.

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 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 *Leyva 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.

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 People Detained at ICE Facility Allege COVID-19 Outbreak is Being Mishandled, DCist.com Arzate, Hector, (January 13, 2022) <https://dcist.com/story/22/01/13/caroline-detention-facility-accused-mishandling-covid/>

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Here is an example of a client the Center represented whose claim would have likely failed if he had been forced to represent himself without a lawyer. Raul Gomez⁴ was from Guatemala; he was a child victim of attacks by the Guatemalan government on indigenous communities during the Guatemalan Civil War. In addition to years of separation from his family, his hand was mutilated during the physical torture perpetrated against by him the Guatemalan military during its razing of indigenous communities. He survived the war and was eventually reunited with his family. He became a respected elder in his community and was elected to many official leadership positions in his *aldea* or village because of it. He dedicated his life to law and order and worked hard to prevent gang infiltration of his *aldea*. He was persecuted and threatened with death by the gangs because of this important work and leadership. He fled to the U.S. and could not afford an immigration attorney to help tell his story to the immigration court. He was on the cusp of an order of deportation because he did not speak English, and therefore, could not fill out the asylum application in English as required by U.S. immigration law. Our Center represented him pro bono and he was granted asylum by the court, with the concession of the Department of Homeland Security, because his case was so strong. Without the assistance of counsel, he would not have been able to tell that story and would have been removed. Today, he is about to become a legal permanent resident.

The thing we know makes the biggest difference in 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.

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