



**Testimony for the Senate Judicial Proceedings Committee  
February 3, 2022**

**SB 129 – Access to Counsel in Immigration Proceedings Program**

**FAVORABLE**

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The ACLU of Maryland supports SB 129, which would establish a universal representation program in Maryland for individuals in immigration proceedings who cannot afford legal representation, and ensure that immigrants and their families are supported holistically throughout the entire process of deportation proceedings.

Unlike in criminal cases, there is no right to counsel in civil immigration proceedings, even though the consequences are severe, including the possibility of family separation and deportation, and sometimes persecution and death. Individuals must often navigate a complex legal system alone, and often in a language unfamiliar to them. Without representation, they are less likely to understand the process, file necessary documents, and comply with court appearances, and are thus severely disadvantaged to have a fair chance of winning their case. Recent data shows that approximately 70 percent of individuals are unrepresented in removal proceedings,<sup>1</sup> and only five percent of those without representation managed to obtain relief from deportation.<sup>2</sup>

The lack of representation is especially urgent for people who are transferred out of the Maryland area. When they are transferred to remote locations like Georgia or Louisiana, there is a lack of resources to adequately defend themselves against deportation. ICE transfers has been a longstanding practice, and is a matter of ICE discretion.<sup>3</sup> Indeed, the Transactional Records Access Clearinghouse (“TRAC”) at Syracuse University has studied nationwide ICE transfer practices, and the rates at

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<sup>1</sup> Kica Matos and Helen Gym, “One Big Thing Cities Can Do on Immigration,” *Bloomberg CityLab*, October 26, 2020. <https://www.bloomberg.com/news/articles/2020-10-26/one-big-thing-cities-can-do-to-protect-immigrants>.

<sup>2</sup> Karen Berberich, Annie Chen, Corey Lazar, and Emily Tucker. “The Case for Universal Representation.” Vera Institute of Justice. December 2018. <https://www.vera.org/advancing-universal-representation-toolkit/the-case-for-universal-representation-1>.

<sup>3</sup> U.S. DEP’T OF HOMELAND SEC. IMMIGRATION AND CUSTOMS ENFORCEMENT POLICY 11022.1 § 5.2(3)(d) <https://www.ice.gov/doclib/detention-reform/pdf/hd-detainee-transfers.pdf> (describing reasons for a transfer).

individual facilities, and have found that ICE transfers are commonplace.<sup>4</sup> In FY 2015, reports for the three existing immigration detention centers (Frederick County Detention Center, Howard County Detention Center, and Worcester County Detention Center) showed high rates of transfer, and the transferred population were predominantly transferred outside of the Maryland area<sup>5</sup>:

<b>Facility</b>	<b>% of detained immigrants transferred</b>	<b>% of transferred population sent outside MD</b>
Frederick County	40%	70%
Howard County	43%	58%
Worcester County	43%	95%

Even with the advent of immigration detention centers closing in Maryland, ICE transfers have historically, and will continue to be the norm, and providing representation to Marylanders will protect the rights of immigrants ICE intends to deport after they have been transferred to far away detention centers.

Basic concepts of fairness and justice also require Maryland to ensure that immigrants facing deportation have equitable access to legal representation. States across the country and local jurisdictions in Maryland, including Baltimore City and Prince George's County, have already developed universal representation programs that are protecting the lives and livelihoods of immigrants and their families. It is time for Maryland to join them, and ensure that all immigrants in Maryland have the full rights that they deserve.

For the foregoing reasons, the ACLU of Maryland urges a favorable report on SB 129.

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<sup>4</sup> TRANSACTIONAL RECORDS ACCESS CLEARINGHOUSE, <https://trac.syr.edu/immigration/detention/tran.shtml>.

<sup>5</sup> TRANSACTIONAL RECORDS ACCESS CLEARINGHOUSE, Transfers of ICE Detainees from the Frederick County Detention Center, <https://trac.syr.edu/immigration/detention/201509/FREDEMD/tran/>; TRANSACTIONAL RECORDS ACCESS CLEARINGHOUSE, Transfers of ICE Detainees from the Howard County Detention Center, <https://trac.syr.edu/immigration/detention/201509/HOWARMD/tran/>; TRANSACTIONAL RECORDS ACCESS CLEARINGHOUSE, Transfers of ICE Detainees from the Worcester County Detention Center, <https://trac.syr.edu/immigration/detention/201509/WORCEMD/tran/>