

Testimony in Support of Increased Immigration Legal Services Funding and Economic Funding
and Tax Incentives for Resettled Afghans
Submitted by Immigrant ARC

My name is Camille Mackler and I am the Executive Director at Immigrant Advocates Response Collaborative (“Immigrant ARC”). Immigrant ARC is a policy and training institute with over 80 member organizations that provide legal services across the state of New York. It began as a collaborative of lawyers who provided immigration representation out of JFK Airport, following the 1st Muslim Travel Ban. In 2020, Immigrant ARC spun out into a stand-alone non-profit. Our mission is to increase access to counsel for immigrant New Yorkers by mobilizing New York State’s legal service providers and addressing the systemic barriers to justice that immigrants face. As an organization dedicated to ensuring that the rights of immigrants are protected, and whose members are immigrant service providers, we advocate for access to legal representation for immigrant communities.

Immigrant ARC is grateful to the Assembly and Senate for convening this important hearing. We urge the inclusion of renewed and increased funding for immigration legal services in this year’s budget, to ensure that all New Yorkers have access to due process and the ability to exercise their rights under existing law. Specifically, we are asking that the FY2023 New York State budget include \$15.3 million in immigration legal services funding through the Liberty Defense Project (a \$5.3 million increase from current levels), and \$3 million of economic development funding for resettled Afghans, as well as tax incentives for employers who hire resettled Afghans within a year of their arrival in New York, through the Empire State Development Fund Program.

Both federally and in New York state, there is no guaranteed right to counsel for immigrants, even when facing detention and deportation. Our immigration system is modeled similarly to our criminal system. Immigrants are often detained by Immigration and Customs Enforcement (ICE), which heavily resemble police forces. Immigrants are held in detention facilities and county jails, sometimes many states away, and can be continuously moved at the will of ICE. Immigration proceedings are adversarial, presided over by a judge, and the government is represented by trained Department of Homeland Security (DHS) attorneys. Due to the prohibitively high cost of immigration services, and the overloaded caseloads of non-profit legal service providers who offer immigration services for free or at a reduced cost, many litigants are forced to represent themselves in immigration proceedings. Because immigration law is civil and overseen by administrative courts, constitutional protections do not apply.

In fact, within 100 miles of the border, Border Patrol can suspend constitutional protections and stop anyone they deem suspect of being unlawfully present in the United States, often based on the color of their skin or the language they are speaking.

Navigating the immigration system has been made harder in recent years by the Trump administration's aggressive enforcement activities, the near-total shutdown of immigration courts during the pandemic, and consequent record backlog of cases awaiting adjudication. Under the Biden administration access to counsel for immigrants has remained limited, as severe policies such as Title 42, have led to the deportation of hundreds of thousands of migrants without the opportunity to even apply for asylum or consult a legal service provider.

According to the Vera Institute of Justice, immigrants who obtain legal representation are much more likely to win release from detention and prevail in their deportation cases. Detained immigrants with legal representation are 4 times more likely to be released from detention, and 11 times more likely to file an application for relief from deportation than unrepresented individuals. When filed, their applications for relief are substantially more likely to succeed. Based on the American Immigration Council's 2016 "Access to Counsel in Immigration Court" report, between 2012 and 2017, when represented in immigration proceedings, 22% of detained, 39% of released, and 60% of never-detained immigrants successfully argued to remain in the U.S.; when unrepresented only 2% of detained, 7% of released, and 17% of never detained immigrants had the same outcomes.

While some immigrants are able to rely on the immigration bar in New York, the demand for representation outpaces the current capacity to provide services to all immigrants in deportation proceedings. In a recent report 27 immigration service providers in New York state were surveyed, and a third of the organizations surveyed reported maintaining a waitlist of individuals they did not have the capacity to represent, and that the need for services was so great that even supervisors had to maintain an average caseload of 21-30 cases per year, undermining their ability to lead, train, educate, and supervise their staff.

It is imperative that Liberty Defense Project funding be fully renewed and increased in order to redress the inequalities of the immigration legal system. The Liberty Defense Project disseminates funding to legal service providers allowing them to increase their staffing and caseloads to deliver robust representation as well as public education. To not renew and increase this funding would force New York's already overwhelmed immigrant legal service providers to walk away from immigrant New Yorkers in need.

We also urge the legislature to provide \$3 million in economic development funding for resettled Afghans, and tax incentives for employers who hire Afghans within a year of their arrival, through the Empire State Development Fund. Following the withdrawal of U.S. and allied troops from Afghanistan in 2021, nearly 1,800 Afghans are expected to resettle in New York. For reference, in the Oregon Legislative Assembly's 2nd 2021 Special Session, the Oregon Legislature allocated \$2,914,286 for case management services for 1,200 resettled Afghans. The New York Legislature should provide \$3 million for Afghan economic development funding and

tax incentives through the Empire State Development Fund Program to both bolster the economy of New York and support resettlement efforts.

Providing this funding would help to support the economic recovery of New York in the wake of the COVID-19 pandemic, while also integrating the sizeable resettled Afghan population in New York into those efforts, in alignment with the Empire State Development Fund Program's mission of job creation and retention and increased business activity across the state. Afghans are being resettled throughout New York, so the regional distribution model of the Empire State Development Fund Program allows communities to tailor the funding and incentives to the needs of each community and tap into the skills of these new community members. Currently, Afghans are only being given a two-year temporary permission to stay and work in the United States. They need legal help to identify permanent pathways for remaining here and helping their families travel here as well. Refugee resettlement agencies are not equipped to handle this type of legal need, and legal service providers are struggling to meet the demand in addition to their already full dockets.

Immigrants, and refugees, have always been an essential part of New York's economy. In 2018 2.8 million immigrants worked in New York State, accounting for approximately 28% of the workforce. Immigrants represent over 30% of the labor force in several industries, including healthcare and social assistance, accommodations and food services, retail and trade, education services, and transportation and warehousing. According to FW.US immigrants create companies at two times the rate of native-born Americans, which helps boost wages and strengthens the middle class.

Immigrants also contribute billions of dollars in revenue to New York in the form of taxes. In 2018, immigrant-led households in the state paid \$35.4 billion in federal taxes and \$21.8 billion in state and local taxes, while undocumented immigrants in New York paid an estimated \$2.3 billion in federal taxes and \$1.4 billion in state and local taxes.

For these reasons Immigrant ARC urges the government to provide \$15.3 million in Liberty Defense Project funding to increase the capacity for immigration legal representation statewide, and to provide \$3 million, and tax incentives for employers who hire Afghans through the Empire State Development Fund Program to assist the recovery of the economy while providing resettled Afghans with an opportunity to contribute.

Thank you for your work on behalf of immigrant communities, for calling this hearing, and for the opportunity to testify today.