



February 15, 2023

Joint Legislative Public Hearing on 2023 Executive Budget Proposal: Topic Local Government Officials/General Government

Immigrant ARC Testimony

Immigrant ARC (I-ARC) is pleased to offer this testimony in support of legal services funding to be included in the FY24 New York State budget. Immigrant ARC is a collaborative of over 80 organizations and professional associations providing legal services to New York's immigrant communities throughout the State. Born out of the legal effort at JFK Airport during the Muslim Travel Ban in 2017, our mission is to mobilize New York State's legal service providers by facilitating communication and information sharing to better support our immigrant communities; to organize and respond to issues as they arise by coordinating resources and fostering best practices among providers; and to resist and challenge anti-immigrant policies by shining a light on injustices and confronting inequalities faced by our communities in the legal system.

There is a crisis of representation for immigrants across the country, which is felt particularly acutely in New York because of the volume of cases pending in our local immigration offices and because our State remains a top destination for newcomers and long-term immigrants alike. The increased enforcement policies of the Trump years combined with pandemic delay have led to sky-high backlogs of pending cases. New York has led the country in investments in legal services for immigrant communities, but current services are at capacity and new needs, including needs of Afghan and Ukrainian refugees, new arrivals of asylum seekers from the Southern Border, and ongoing needs of immigrant communities cannot be met. This means thousands of New Yorkers seeking help are turned away each month.

As part of the CARE for Immigrant Families Coalition, we urge the New York Legislature to include the Access to Representation Act (S999/A170) in the FY 2024 budget, a first in the nation law that would create a right to counsel for immigrant New Yorkers and fund counsel in immigration deportation proceedings. **To fund the first year of implementation of the ARA, we ask the State to allocate \$55 million; we also urge the State to increase funding for both affirmative and defensive immigration legal services to \$35 million through what was previously known as the Liberty Defense Project within the Office of New Americans, and to allocate \$10 million in rapid response immigration legal services to address the needs of newly arrived migrants.**

Today, there is still no guaranteed right to counsel in immigration proceedings in the United States, despite the fact that immigrants in deportation proceedings face serious consequences such as family separation or deportation to a country where they may face persecution, abuse, or death. Having a lawyer makes a staggering difference in an immigration case. Studies show

that immigrants with attorneys are 3.5 times more likely to be granted bond (enabling release from detention) and, if they are in detention, are 10.5 times more likely to not be deported than those without representation. For those who are not in detention, 60 percent of immigrants with lawyers win their cases compared to 17 percent of those without a lawyer. Many forms of immigration relief are time sensitive, such as asylum applications, which must be submitted within one year of asylum seekers arriving in the United States. Given the difference in outcomes for immigrants who have representation and those who don't it's clear that without counsel many immigrants will not be able to adequately prepare their cases and have them adjudicated on the merits of the case. This presents a fixable due process issue that the State should address.

The existing immigration legal services funding streams are not enough. In 2021, twenty-seven immigration service providers in New York State were surveyed for Immigrant ARC's 2021 Justice for All report. A third of the organizations who responded 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, mentor, and supervise their staff.

To make matters worse, New York State maintains a backlog in immigration court of over 180,000 cases, and it is estimated that at least 60,000 of these cases are unrepresented. At 26 Federal Plaza the lines to enter the DHS offices and immigration court are so long that migrants are lining up overnight so that they can report for a mandatory ICE check-in.

New York State has a long history of welcoming immigrants. It's time for New York to commit to ensuring that every immigrant New Yorker has a fair opportunity to adjudicate their case with representation.