



Cornell Brooks Public Policy

Cornell Jeb E. Brooks
School of Public Policy
Alexandra Dufresne
Professor of the Practice
Director, State Policy Advocacy Clinic
2108 MVR Hall
Ithaca, NY 14853
alexandra.dufresne@cornell.edu
(607)882-3860

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The Honorable Liz Krueger
Chair, Standing Finance Committee
Room 416 CAP, Capitol Building
Albany, NY 12247
financechair@nysenate.gov

The Honorable Helene E. Weinstein
Chair, Standing Committee on Ways and Means
LOB 923, Capitol Building
Albany, NY 12248
wamchair@nyassembly.gov

Testimony in Support of Enactment of the Access to Representation Act and Increased Immigration Legal Services Funding

Submitted to the Joint Legislative Budget Hearings on Public Protection and Human Services

Dear Chairperson Krueger and Chairperson Weinstein,

This legislative testimony is submitted by Gus Dunn-Hindle and Darshana Subramaniam, students in the 2023-2024 State Policy Advocacy Clinic at the Jeb E. Brooks School of Public Policy at Cornell University, Alexandra Dufresne (Professor of the Practice, Jeb E. Brooks School of Public Policy, Cornell University), and Stephen Yale-Loehr (Professor of Immigration Law Practice, Cornell Law School). The State Policy Advocacy Clinic is an academic course at Cornell designed to teach students public policy research, design, and advocacy skills. The Clinic does not represent or speak for Cornell University, the Brooks School or the Law School.

We support the passage of the Access to Representation Act (ARA, S999A/A170A), which would establish a right to counsel in New York State immigration courts. We also support increased funding for legal and other services for immigrants.

Currently, about 170,000 noncitizens in New York State lack legal representation, fighting to remain lawfully in the United States.



¹ For immigrants facing detention, removal, or other immigration-related proceedings, legal representation is essential to ensuring accurate and just execution of the law. Noncitizens with legal representation are over ten times more likely to win their cases.² Lack of representation leads to a distortion of justice, as “immigrants may not be aware that they are eligible for certain forms of relief, much less file a robust application” without counsel.³ Without representation, immigrants are fifteen times less likely to seek relief for which they are eligible.⁴ This is especially true for children facing removal proceedings.

All people, but children in particular, can struggle to navigate the “byzantine network of substantive and procedural rules of law” that make up immigration proceedings.⁵ For children eligible for protection under Special Immigrant Juvenile Status (SIJS), who would otherwise be deported into potentially dangerous situations or family lives, access to representation is essential in applying for these protections. Of all the SIJS petitions filed, 93.4% were filed with the help of an attorney, meaning that almost no child without the aid of a lawyer was able to apply for these protections on their own.⁶ Without legal representation, the safety of immigrant children is essentially left up to the ability of a minor to navigate complicated legal proceedings.

Access to legal representation is also essential to protect the rights of people in immigration detention, as detailed in our comprehensive December 2023 report, [*The Dignity Not Detention Act: Transforming Immigration Practices in New York State*](#). As discussed in this report, unnecessary detention imposes significant costs on communities and families in New York, including families with U.S. citizen children. Access to counsel is essential to make sure that people are not detained arbitrarily, unnecessarily or longer than necessary, and that detention conditions do not violate individuals’ basic human rights.⁷

In addition to enacting the ARA, we are asking to allocate \$150 million to meet the long-term legal and social service needs of noncitizens and their families. The investment is comprised of:

- \$62 million for deportation defense
- \$23 million for education and integration; and
- \$65 million for rapid response and training, recruitment, and retention

This is in comparison to FY 2024 where \$63 million was dedicated to legal and other services. As of November 2023, there was a backlog of 300,000 immigration cases in New York,⁸ and the ARA could decrease the delay in court proceedings by informing immigrants of their rights. The increase in funding will provide full representation for immigrants, fund English education, and help immigrants to safe, happy, productive members of their communities.

Granting legal status to undocumented immigrants in New York represents a potential \$250 million increase in annual state and local revenue, and granting representation and support could be part of an effective program to unleash that additional revenue and productivity.⁹ The provision of legal representation and other services could potentially increase New York State tax revenue in the long run.

Providing legal representation is essential to ensuring the equal application of the law, and the legitimacy of the rule of law in New York state. By allocating the suggested funds and passing the Access to Representation Act (ARA, S999A/A170A), New York State stands not only to be at the

forefront of legal justice in America, but also to welcome additional tax revenue and much-needed labor into the state.

For additional information, please contact Professor Alexandra Dufresne at alexandra.dufresne@cornell.edu.

Sincerely,

Alexandra Dufresne
by D.S.

Alexandra Dufresne
Director of the State Policy and Advocacy Clinic
Jeb E. Brooks School of Public Policy
Cornell University

Stephen Loehr

Stephen Yale-Loehr
Professor of Immigration Law Practice
Cornell Law School

¹New York Job Openings and Labor Turnover — June 2023 : Northeast Information Office : U.S. Bureau of Labor Statistics,” January 25, 2024, https://www.bls.gov/regions/northeast/news-release/jobopeningslaborturnover_newyork.htm.

²Ingrid Eagly and Steven Shafer, “A National Study of Access to Counsel in Immigration Court,” *University of Pennsylvania Law Review* 164, no. 1 (January 1, 2015): 1.

³Laila Hlass, Rachel L. Davidson, and Austin Kocher, “The Double Exclusion of Immigrant Youth,” SSRN Scholarly Paper (Rochester, NY, September 1, 2023), <https://papers.ssrn.com/abstract=4559419>.

⁴Ibid.

⁵Stephen Legomsky, “Restructuring Immigration Adjudication,” *Duke Law Journal* 59, no. 8 (May 1, 2010): 1635–1721.

⁶Laila Hlass, Rachel L. Davidson, and Austin Kocher, “The Double Exclusion of Immigrant Youth,” SSRN Scholarly Paper (Rochester, NY, September 1, 2023), <https://papers.ssrn.com/abstract=4559419>.

⁷Elizabeth Taber et al., “New York State: The Dignity Not Detention Act,” *Global Detention Project | Mapping immigration detention around the world*, December 19, 2023, <https://www.globaldetentionproject.org/new-york-state-the-dignity-not-detention-act>.

⁸“New Proceedings Filed in Immigration Court,” January 25, 2024, <https://trac.syr.edu/phptools/immigration/ntanew/>.

⁹Lisa Gee et al., “Undocumented Immigrants’ State & Local Tax Contributions,” ITEP, January 25, 2024, <https://itep.org/undocumented-immigrants-state-local-tax-contributions-2017/>.