



JB Pritzker, Governor


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DATE: May 2, 2024

MEMORANDUM

TO: The Honorable John F. Curran, Senate Minority Leader
The Honorable Don Harmon, Senate President
The Honorable Tony McCombie, House Minority Leader
The Honorable Emanuel "Chris" Welch, Speaker of the House

FROM: Dulce Quintero  here
Secretary Designate
Illinois Department of Human Services

SUBJECT: **Right to Counsel in Immigration Proceedings Task Force Report**

The Illinois Department of Human Services respectfully submits the Right to Counsel in Immigration Proceedings Task Force Report on behalf of the Office of the Secretary in order to fulfill the requirements set forth in Public Act 102-0827.

If you have any questions or comments, please contact Bess Johnson, Office of Legislative Affairs, at Bess.Johnson@illinois.gov.

cc: The Honorable JB Pritzker, Governor
John W. Hollman, Clerk of the House
Tim Anderson, Secretary of the Illinois Senate
Legislative Research Unit
State Government Report Center

Right to Counsel in Immigration Proceedings Task Force

Final Report

Illinois Department of Human Services
Great Cities Institute at University of Illinois Chicago
April, 2024



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Executive Summary

The Right to Counsel in Immigration Proceedings Act (the “Act”) passed the Illinois General Assembly in May 2022 and was signed into law on May 13, 2022. The Act created a Task Force assigned to investigate the implementation of universal representation for immigrants in certain legal proceedings related to their immigration status.

The Task Force met regularly throughout 2023, heard presentations from experts, and consulted various other sources of information, including data from the Executive Office of Immigration Review. This report presents the findings from the research conducted and of the Task Force’s deliberations. Highlights of this report include the following:

Inherent Challenges of Estimating Immigrant Legal Needs

- Developing estimates of the costs of universal representation requires access to information on the costs and the number of persons involved. Unfortunately, data are lacking on key aspects of estimating universal representation, including comprehensive numbers of persons in need, exact rates of current representation by attorneys, and the different legal costs associated with serving detained vs. non-detained persons, cases with a criminal charge vs. no criminal charge, and other types of cases. Immigration is critical to maintaining Illinois population levels, making up for declines in the native-born population.
- Given the lack of comprehensive data, the Task Force made estimates based on available data or assumptions, on service needs and related costs.

Number of Individuals Potentially Falling within the Definitions of the Act

- Before the arrival of new waves of migrants bused to Chicago from the Texas border, approximately 5,105 Illinois residents had a proceeding in immigration court each year.
- Looking ahead, more than 120,000 immigration cases are pending in the Chicago immigration court, and additional individuals may have proceedings in other forums. The number of new arrivals from the southwestern border is growing rapidly at this time, and it is impossible to estimate how many will require legal representation.

Resources Needed

- The average per-case cost of legal representation is estimated at \$10,685. The cost includes \$5,625 in attorney costs and \$5,060 in ancillary costs related to training, supervision, materials, and other expenses

Existing State Investments in Immigration Legal Services in FY24

- The Access to Justice (AJJ) program provides \$12.5M in state funds for a wide range of immigration services, including assistance to persons in removal proceedings.
- The New Americans Initiative (NAI) receives \$8 million for naturalization services and assistance to persons eligible for Deferred Action for Childhood Arrivals (DACA).
- A total of \$13M has been made available in FY2024 to assist new migrants in applying for work permits, Temporary Protected Status, asylum, and other legal services.

Bond Payment Support

- Approximately one in five persons in immigration court have a bond. The median bond amount set by immigration judges in a recent five-year period was \$5,000.

Estimates of Domiciliaries

- The language of the Act raises the question of how many Illinois residents are in immigration court vs. residents of other states who have cases in the Chicago immigration court. About 5,105 Illinois residents are in court annually (and 95% are in Chicago court vs. out-of-state courts).

Regions of Residence

- Of non-detained Illinois residents in immigration court in 2022, 2,877 resided in Cook County, 508 in DuPage County, and 323 in Lake County. The top municipalities of residence were Chicago at 1,750, Aurora at 151, and Waukegan at 142 persons.

Household Income

- Approximately 68 percent of undocumented immigrants in Illinois may have incomes below 250 percent of the poverty level.

Rates of Representation

- Data from the immigration court system suggest that about 60 percent of Illinois residents have legal representation based on whether an attorney appearance was ever filed in a case. This rate may be high because it does not indicate that an attorney has represented a case from start to finish.

Recommendations

The Task Force shared key recommendations to enhance the non-profit immigration legal support system.

First, existing non-profits should be supported in adopting best practices that make their services more accessible to immigrant clients. This includes training and funding for trauma-informed legal services, translation and interpretation services, technology upgrades for remote work, and core operating support to offer low or free services.

Second, the capacity of current non-profit providers should be expanded. This can be done by increasing funding to improve salaries, benefits, and training opportunities that help attract, retain, and develop qualified legal staff. Additional support staff roles should be funded to allow legal representatives to focus their time on legal work. Expanding the capacity of current non-profit providers requires a commitment to multi-year funding streams. Organizations are severely challenged to commit to multi-year cases without a guarantee that the funding will be available for the life of the case. Additionally, expanding capacity requires new non-profit organizations to start removal defense programs, which require additional resources and time to create new programs.

Third, new service models should be piloted to extend limited resources. Different service models are optimal for different types of cases within removal defense. For detained cases, the model implemented through the Midwest Immigrant Defenders Alliance (MIDA) is ideal. This includes full representation from the start, through bond proceedings, and to the final result of the case. For non-detained cases where the numbers of individuals are increasing rapidly and cases may be multi-year commitments, options include pro se clinics, unbundled legal services, public-private partnerships, and representation initiatives in collaboration with the Chicago Immigration Court. Expanding quality universal representation will take time. In the interim, flexibility and creativity are required to serve exponentially growing caseloads. Recent large-scale TPS/EAD clinics funded by the state and led by The Resurrection Project in partnership with non-profits, private attorneys, and the federal government provide one promising example to build upon.

Finally, the pipeline of legal professionals equipped to take on immigration cases should be increased. This can involve supporting accredited programs that train immigrant advocates and paralegals, funding law school clinics focused on immigration, and providing financial assistance and mentorships to encourage attorneys to pursue immigration law.

Taking steps to support best practices, build organizational capacity, and expand the pool of qualified professionals will lead to an immigration legal support system that is higher quality, more accessible, and better able to serve immigrant communities in need.



Introduction to the Right to Counsel In Immigration Proceedings Task Force

The Illinois General Assembly passed the Right to Counsel in Immigration Proceedings Act (the “Act”) in May 2022.¹

The Act made a variety of findings regarding immigrants at risk of removal²:

- The State is committed to fair and equal treatment...of individuals at risk of removal and separation from their families through the federal immigration detention and deportation system.
- (Legal representation) may be beyond the financial capacity of low-income households.
- Among the individuals facing removal proceedings in this State, less than one in three individuals, generally, and less than one in eight individuals in detention were represented by counsel.
- Legal representation is essential to... release from detention and relief from removal. Individuals in immigration detention are four times more likely to win release if represented by legal counsel... In removal proceedings, detained individuals are 11 times more likely to succeed in claims for relief if represented by legal counsel...
- Legal representation in removal proceedings has improved the efficiency of the proceedings and the administration of justice as individuals can better present their defenses and claims for relief.

The Act created a task force assigned to investigate the implementation of universal representation for immigrants in certain legal proceedings. The scope of the Task Force mandate includes proceedings in federal immigration court, credible fear interviews with U.S. Citizenship and Immigration Services, certain proceedings related to immigration in state courts, and other proceedings that affect an individual’s immigration status. A copy of the Act is appended to this report.

Members of the Task Force were appointed by the Governor of Illinois, the President of the Illinois Senate, the Minority Leader of the Illinois Senate, the Speaker of the Illinois House of Representatives, the Minority Leader of the Illinois House, the Illinois Attorney General, and the Secretary of the Illinois Department of Human Services. Members of the Task Force include:

- Sioban Albiol, Professor of Legal Practice and Director, Asylum & Immigration Law Clinic, DePaul University
- Charlotte Alvarez, Executive Director, The Immigration Project
- Gloria Campos, Director of Minority Outreach for 58th District Senator Terri Bryant, assistant Senate Minority Leader
- Kathy Hunt Muse, Deputy Chief, Public Interest Division, Office of the Illinois Attorney General
- Jane Lombardi, Sr. Director, Immigrant Justice Partnerships, The Resurrection Project
- Ruben Loyo, Associate Director, Detention Project, National Immigrant Justice Center

The Task Force is staffed by Ngoan Le, IDHS Immigration and Housing Policy Director; Ruth Lopez-McCarthy, J.D., Senior Immigration Fellow, IDHS and Office of the Governor; and Rob Paral, Senior Research Specialist, Great Cities Institute, University of Illinois at Chicago.

The Task Force convened for the first time in January 2023 and set a calendar of bimonthly public meetings, with additional meetings scheduled as needed. Meeting agendas and other information are available on the [Illinois Department of Human Services website](#).

¹ 20 ILCS 4112/5, www.ilga.gov/legislation/ilcs/documents/002041120K5.htm. Accessed 29 Jan. 2024.

² See [20 ILCS 4112/5 \(b\)-\(e\)](#)

In their meetings, the Task Force members discussed how best to answer the questions posed by the Right to Counsel in Immigration Proceedings Act. The Task Force discussed recent flows of migrants and immigrants potentially covered by the act and the best methods of estimating covered populations and dollar amounts associated with providing legal services to them. Task Force members heard presentations from representatives of the following institutions:

- American Bar Association's Commission on Immigration (Emily McCabe, Senior Staff Attorney)
- Capital Area Immigrants' Rights Coalition (Eric Lopez, Senior Attorney)
- Midwest Immigration Bond Fund (Guadalupe Perez)
- Vera Institute (Liz Kenney, Associate Director for the Advancing Universal Representation initiative)
- Welcome Legal Alliance (Karen Lucas, Senior Consultant)

The following report addresses six specific matters and four additional categories of investigation as presented by the Right to Counsel Act. Chapters lead with a relevant excerpt of the Act's mandates. This report was written by Rob Paral, Senior Research Specialist, UIC Greate Cities Institute.

Statement on Key Issues Affecting the Development of Access to Counsel

The legislation that created the Task Force directs the members to consider multiple issues related to providing access to counsel. Several issues, in particular, raise complicated issues that are highlighted here.

Populations in Need

Per the Act, the Task Force is asked to estimate the population needing legal representation. However, given recent unpredictable changes in immigration patterns and policies, it is not feasible for the Task Force to accurately project the total population needing legal representation in future years.

The ongoing influx of Southwestern Border Arrivals to Illinois has brought over 35,000 new migrants since August 2022, all of whom will require counsel to navigate immigration proceedings. With no signs of slowing, the number expected to arrive remains to be discovered. Additionally, the recent TPS designation for pre-7/31/23 Venezuelan entrants and evolving asylum regulations will substantially expand those eligible for legal services and protections, though by an uncertain amount.

While traditional caseload data provides a baseline understanding of needs, it does not account for the above unpredictable factors that ensure a significant expansion of legal needs above prior levels. As the immigration landscape shifts, estimation based on past data has become inadequate. Regular review and adjustment will be required to provide representation commensurate to an evolving situation.

Persons with or without Counsel

The Act seeks information on the share of persons who lack legal counsel in removal proceedings. However, accurately determining representation rates for persons in removal proceedings poses challenges. Available Executive Office for Immigration Review (EOIR) data has limitations. While EOIR records indicate when an E-28 (Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court) form has been filed to show legal entry of appearance, this does not reveal whether the representation is throughout their case.³ Without tracking longitudinal representation rates from the beginning to the conclusion of

³ Proceedings before EOIR often take several years. It is often the case that individuals who are able to secure representation by counsel at some point in the case cannot subsequently afford to continue to retain counsel during the entirety of the case up to and including the final individual evidentiary hearing.

cases, it is difficult to confirm how often defendants lacked counsel at critical junctures. More qualitative information is needed to fully gauge how often immigration defendants navigate proceedings without the benefit of continuous legal counsel.

Income Levels of Persons in Need of Counsel

The Act calls for the Task Force to estimate the number of persons needing immigration legal representation who have incomes below 250% percent of the federal poverty level. Data from the Center for Migration Studies New York indicates that approximately 68% of undocumented immigrants have incomes below 250% of the federal poverty guidelines.

Differentiating Legal Services

The Task Force notes that many factors determine the cost of legal services for a specific individual. Unfortunately, data on the costs of each type of case is unavailable. Examples of issues that bear upon cases' costs include the following:

Unaccompanied minors

- Unaccompanied minors may have access to special visas and/or be eligible for legal services and other assistance through programs funded by the federal government. These cases require specialized expertise, including, in some cases, experience in state court practice for youths eligible for Special Immigrant Juvenile (SIJ) status.
- Working with unaccompanied minors also takes more time per case for legal representatives in order to establish a relationship of trust, explain legal concepts, and gather facts from clients who are children. There is also more need for non-legal support such as social workers and mental health professionals.

Respondents with criminal charges or convictions

- The presence of criminal charges can require special counseling on options such as cancellation of removal or determination of whether a charge is an "aggravated felony." Responding to the implications of criminal charges or convictions adds to the costs of representation by expanding the number of related proceedings that representation involves and requiring attorneys to have additional expertise in criminal law.

Detained respondents

- Communicating with respondents in detention can be especially difficult given that their detention location is almost always in a state other than Illinois. Meeting with respondents can involve online or telephone communication that may need to be revised. Detained cases also move quickly compared to non-detained docket cases, often raising complex issues (such as ancillary criminal law issues). Non-detained respondents may be employed and able to earn income to pay for some of their legal costs.

Complex cases

- Complex cases may involve respondents with eligibility for special visas involving other government units such as municipal law enforcement or state courts, asylum or protection-based cases, and cases that raise criminal immigration or other ancillary issues. Cases at the federal district (such as for habeas petitions) or appellate level require specialized legal experience by counsel.

Multi-year cases and impacts of the court backlog

- It can take years for a case in immigration court to go from the initial calendar hearing to the final disposition, particularly on the non-detained docket. State support for legal services, however, is year by year, based on annual appropriations. It is hard to estimate annual costs for cases that take years. From a provider perspective, it is also logistically challenging to absorb non-detained cases on a multi-year track. There may be staff turnover during the entire life of a case, for example, and periods where a case may be dormant, followed by future periods of significant activity. The governing law may also shift during the life of a case, adding complexity.
- Moreover, the court's overall caseload and backlog of cases presents a significant impediment to scaling up universal representation. Scaling up may require experimentation with different legal services models (e.g., limited scope representation or pro se assistance on some matters) to ensure sustainability.

Affirmative Applications

- Affirmative applications for some forms of immigration statuses are covered by the Act and do not involve the immigration courts. For example, individuals may apply for asylum and receive an interview for which counsel can assist in preparation.

Fiscal Implications

While Illinois currently allocates \$25.3 million in funding toward immigration legal services and similar initiatives in Cook County and Chicago, the available resources fall far short of providing universal representation. Though helpful, consulate and private philanthropic support cover only a fraction of needs. This patchwork of limited funded programs leaves many immigrants to navigate complex removal proceedings alone.

This report aims to quantify the full potential costs if Illinois were to provide universal legal counsel for all covered persons in immigration court. This cost is likely to be considered with other costs associated with state-funded services for immigrants.

Economic Benefits of Universal Representation

The Task Force believes that service costs must be viewed in the context of positive outcomes for the respondents, their families, and communities. Favorable outcomes in immigration cases can involve either maintenance of lawful status, achievement of lawful status, or legal authorization to work, allowing immigrants to contribute to their families and the economy. In the detention context, detained immigrants with legal representation are much more likely to prevail in court than those without counsel⁴. Many have family members residing legally in the U.S. and go on to pay significant amounts of taxes when they return to the workforce after release⁵.

Nonprofit Legal Salaries and Costs

Staffing and support costs referenced in this report are based on data from recent years, but it must be noted that nonprofit remuneration is lower than it should be. Inflation diminishes the value of these dollar amounts. It must also be noted that establishing a new program involves start-up costs for nonprofits.

The legislation that created the Task Force directs the members to consider multiple issues related to providing access to counsel. Several issues, in particular, raise complicated issues that are highlighted here.

4 Northern California Collaborative for Immigrant Justice 2014 [Access to Justice for Immigrant Families and Communities Study of Legal Representation of Detained Immigrants in Northern California](#).

5 Jennifer Stave, Peter Markowitz, Karen Berberich, Tammy Cho, Danny Dubbaneh, Laura Simich, Nina Siulc, and Noelle Smart 2017 [Evaluation of the New York Immigrant Family Unity Project: Assessing the Impact of Legal Representation on Family and Community Unity](#).

Statement from the Illinois Department of Human Services

The Right to Counsel in Immigration Proceedings Act, signed into law in May 2022, mandates the Illinois Department of Human Services (IDHS) to provide administrative support for the Right to Counsel Task Force. IDHS is proud to partner with Task Force members in producing their insightful report.

The report provides a crucial analysis of potential costs for establishing universal legal counsel for immigrants in removal proceedings. This report will help to inform future deliberation on support for legal services assessments as a high proportion of recent migrants arriving in Illinois will likely face removal proceedings, given limited legal immigration options.

Illinois has aided the steady ongoing arrival of over 35,000 migrants as of January 2024. The Chicago Immigration Court's data show that there are over 80,000 pending cases. The State and local governments, such as the City of Chicago, have spent millions to provide essential services for shelter, food, healthcare, and case management. The State of Illinois alone has allocated \$13 million specifically for legal assistance to help eligible migrants apply for Temporary Protected Status (TPS), Employment Authorization Documentation (EAD), and asylum.

While the Right to Counsel Task Force report documents what fully realized universal representation could entail, it is evident Illinois cannot fund such a comprehensive program without major federal financial backing. IDHS applauds the Task Force's work to quantify the investment required. Their analysis will prove valuable as Illinois continues striving to serve immigrant communities fairly and humanely.

Covered Individuals and Proceedings

The Right to Counsel Act defines "covered individuals" as persons subject to removal proceedings or final order of removal under the Immigration and Nationality Act,^{6,7} Covered individuals include persons who are a domiciliary of Illinois and persons who are not a domiciliary of Illinois whose removal proceedings are conducted against the individual in Illinois. (The definition of "domiciliary" is discussed later in this report.)

The Act defines "covered proceedings" as any proceedings where a covered individual seeks an avenue of relief from removal or challenges their immigration-related arrest or detention.

The following paragraphs estimate the numbers of persons falling into categories of covered individuals and covered proceedings. These estimates will be broken down further by domiciliary status later in this report.

The Task Force investigation shall include... the estimated number of covered individuals facing a covered proceeding"

⁶ Under 8 U.S.C. 1225, 1228, and 1229a or a final order of removal under 8 CFR 1241.1. Among other topics, these sections of the INA refer to removal on security and related grounds, removal of immigrants having committed a crime, and orders of removal by an immigration judge.

⁷ The term "removal" generally equates to the terms "deportation" or "exclusion".

Estimates of Covered Individuals

Persons in Removal Proceedings

Caseloads of Recent Years: Long-Term Undocumented Immigrants

The U.S. Department of Homeland Security estimates that 450,000 undocumented immigrants resided in Illinois as of 2018, the most recent year for which federal estimates are available.⁸ This number represents what might be called **Long-Term Undocumented Immigrants**, who are part of well-established movements of immigrants that have been occurring for many decades. The number of these persons with a hearing in immigration court has averaged 5,105 annually over the past five years.^{9,10}

Year	Total
2018	3,513
2019	7,073
2020	6,646
2021	3,038
2022	5,253
5-year avg.	5,105

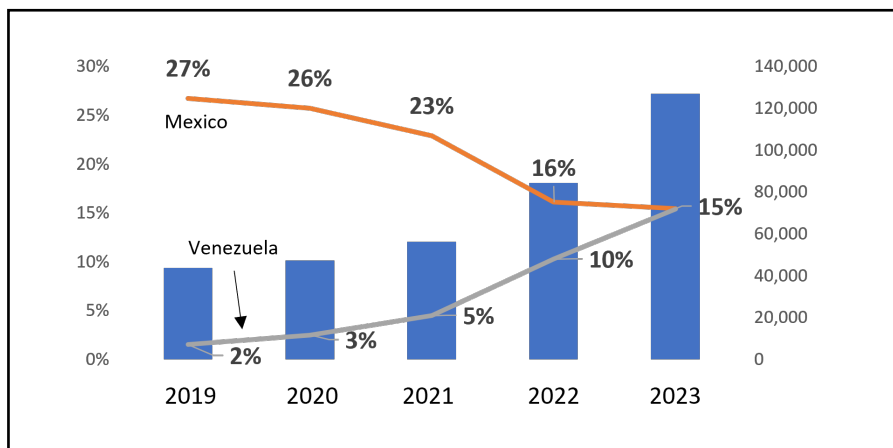
Source: Analysis of EOIR database

Southwestern Border Arrivals

Southwestern Border Arrivals (SBAs) refers to persons who generally began to arrive in Illinois in the fall of 2022. Most were sent to Illinois on buses arranged by the Governor of Texas and some non-profit organizations. The population includes migrants from multiple countries, although a prominent source nation is Venezuela.

According to the City of Chicago, nearly 30,000 migrants have come to Chicago as of early January 2024 with more new arrivals coming daily.¹¹ The growth in new arrivals makes it impossible to estimate the number of these persons who may be in removal proceedings in future years.

Figure1: Pending Cases in Chicago Immigration Court: Total Number and Share of Cases from Mexico and Venezuela: 2019-2023



Source: Transactional Records Access Clearinghouse, Syracuse University

Cases in Chicago vs. Other Courts

Some persons with an Illinois address appear for legal proceedings in courts outside of the state. Representing these individuals may be relatively more costly and time-consuming and may present other logistical challenges for Illinois-based legal service providers.

8 “Estimates of the Unauthorized Immigrant Population Residing in the United States.” www.dhs.gov/immigration-statistics/population-estimates/unauthorized-resident. Accessed 29 Jan. 2024.

9 In a given year, the 5,105 cases included cases that had a proceeding in previous years, and cases with their first appearance in court.

10 The numbers of Illinois residents in immigration court in 2018-2022 largely predate the arrivals of new groups of migrants from Afghanistan, Cuba, Haiti, Nicaragua and Venezuela.

11 Dashboard, www.chicago.gov/city/en/sites/texas-new-arrivals/home/Dashboard.html. Accessed 29 Jan. 2024.

Over the past five years, about 95 percent of Illinois residents with an immigration court appearance have appeared in Chicago court. Of those appearing outside of Illinois, the leading states were Texas, Missouri, and California. Reasons for cases of Illinois residents being venued out of state are not clear from the data, but may include cases of Illinois residents transferred to out-of-state detention centers.

Table2: Illinois Residents in Immigration Court: 2018-2022

	<i>Total</i>	<i>In Chicago Court</i>	<i>Not in Chicago Court</i>	<i>Pct. in Chicago Court</i>
2018	3,513	3,377	136	96%
2019	7,073	6,829	244	97%
2020	6,646	6,516	130	98%
2021	3,038	2,840	198	93%
2022	5,253	4,788	465	91%
Total	25,523	24,350	1,173	95%
5-year avg.	5,105	4,941	235	

Source: Analysis of EOIR database

Table3: Top Ten States of Immigration Court Appearance of Persons with Illinois Address: 2018-2022

	<i>Total</i>	<i>Pct. of Total</i>
Total	25,523	100.0%
IL	24,350	95.4%
TX	229	0.9%
MO	201	0.8%
Unreported	109	0.4%
CA	78	0.3%
FL	76	0.3%
NY	73	0.3%
GA	44	0.2%
CO	39	0.2%
MN	35	0.1%
MI	34	0.1%
OH	34	0.1%

Source: EOIR database

Estimates of Persons in Covered Proceedings

The Act specifies 10 types of legal covered proceedings involving covered individuals seeking relief from removal or challenging arrest or detention under the Immigration and Nationality Act (see below). Persons within the covered populations described earlier could be involved with any of the 10 proceedings. This means that the types of covered proceedings described in the Act do not limit the previous estimates of persons who might need legal assistance.

“Covered proceeding” includes:

1. a proceeding or hearing in an immigration court and any related application to United States Citizenship and Immigration Services connected to the proceeding or hearing;
2. an immigration proceeding conducted by telephone or video teleconference;
3. a proceeding in a State court for purposes of obtaining a special findings order;
4. a proceeding in a State court for purposes of vacating a conviction or modifying a sentence in which the conviction or sentence is relevant to the immigration proceedings at issue;
5. a credible fear interview or reasonable fear interview;
6. a habeas corpus petition to a federal district court challenging detention under the Immigration and Nationality Act;
7. a motion to reopen or reconsider under 8 U.S.C. 1229a;
8. a petition for review under 8 U.S.C. 1252;
9. a remand to a federal district court from the United States Court of Appeals for fact-finding purposes; and
10. any appeal related to any of the foregoing to the Board of Immigration Appeals, the United States Court of Appeals, or the United States Supreme Court.

Current Infrastructure

Attorneys with immigration legal experience are found within the non-profit, public, and private sectors. The major categories of immigration attorneys in Illinois are as follows:

Illinois Access to Justice

Illinois Access to Justice (ILA2J) is a statewide program that uses public education and direct legal service to mitigate the consequences of detention and incarceration.¹² ILA2J targets certain services directly to immigrants. In 2022, 6,200 persons received immigration screening and support from ILA2J, and ILA2J providers accepted about 2,100 affirmative and defensive immigration cases for representation.¹³

ILA2J providers secured representation for 18 clients in ICE custody and 250 clients in non-detained removal proceedings. Some 115 clients were represented in affirmative asylum cases, and about 1,800 were provided services related to other immigration benefit applications.

The Task Force investigation shall include... the current infrastructure for providing independent, competent, and zealous legal representation in a covered proceeding.

Table4: Mental Health Status for Hispanic or Latino Population in Illinois (2022)

<i>Service Area</i>	<i>Cases</i>
Number of recruited, trained, and coordinated Community Navigators	425
Education provided to Illinois immigrants to include Know Your Rights, public charge, immigration relief, and other legislative policies	153,476
Number of clients served with referrals to legal services and accompaniment	10,234
Legal Screenings and Advice	6,194
Cases Accepted for Representation	2,117
<i>Source: FY2022 A2J TRP Periodic Performance Report, Illinois Department of Human Services</i>	

Table5: Illinois Access to Justice Client Outcomes: FY2022

<i>Service Area</i>	<i>Cases</i>
Secured representation in detained removal proceedings in order to obtain release from ICE custody	18
Secured representation in non-detained removal proceedings	250
Secured representation in asylum cases (defensive or affirmative)	115
Secured representation for other affirmative immigration benefit applications	1,803
Cases Accepted for Representation	2,117
<i>Source: FY2022 A2J TRP Periodic Performance Report, Illinois Department of Human Services</i>	

¹² A list of FY2022 ILA2J contracting agencies is found in an appendix to this report.

¹³ The Resurrection Project. "2022 ILA2J Annual Report: Illinois Access To Justice." 10 Nov. 2022, ilacesstojustice.com/2022ila2jreport/.

Other Non-Profit Providers of Immigration Legal Services

The State provides \$13 million to non-profit legal service providers to support legal services for new migrants. Services include helping eligible migrants apply for work permits, Temporary Protected Status, asylum, and other legal remedies.

The Illinois Coalition for Immigrant and Refugee Rights publishes a directory of organizations that provide legal services to immigrants.¹⁴ The list was updated in the spring of 2023.

Law School Legal Clinics

Illinois is home to nine law schools granting Juris Doctor degrees. Five of them provide some legal services through clinical legal programs to a limited number of clients, primarily as part of the training of law students:

- [Chicago-Kent College of Law Immigration Group Practice Area](#)
- [DePaul Asylum and Immigration Law Clinic](#)¹⁵
- [Seigle Clinic for Immigrant Youth and Families at Northwestern University](#)
- [University of Chicago Immigrants' Rights Clinic](#)
- [University of Illinois Champaign-Urbana Immigration Law Clinic](#)

Cook County Public Defender's Office

The Immigration Division of the Law Office of the Cook County Public Defender assists public defenders to ascertain whether the defendants they represent may have adverse immigration consequences resulting from their cases.¹⁶ In 2022, several immigration attorneys within the county law office began representing current and former public defender clients before the Chicago Immigration Court.

Private Bar

There are approximately 800 members of the Chicago chapter of the American Immigration Lawyers Association. Not all members practice in the areas of removal defense, or asylum. Additionally, many attorneys do not practice immigration law full-time but provide limited representation to immigrants, often pro bono.

DOJ Accredited Representatives

Approximately 42 organizations in Illinois are recognized by the U.S. Department of Justice to employ accredited representatives.¹⁷ Many of these groups are service providers under the A2J and NAI programs. As of August 2023, there were 129 representatives in these groups (see Appendix for full list).

A 2021 analysis found only 16 accredited representatives in Illinois with “full” accreditation allowing them to represent individuals in immigration court.¹⁸ The remaining had partial accreditation, permitting them to advise immigrants in proceedings with U.S. Citizenship and Immigration Services.

The Midwest Immigrant Defenders Alliance

The Midwest Immigrant Defenders Alliance (MIDA) is a pilot program of the National Immigrant Justice Center (NIJC), The Resurrection Project (TRP), The Immigration Project (TIP), and the Law Office of the Cook

¹⁴ Illinois Coalition for Immigrant and Refugee Rights icirr.org

¹⁵ Also provides training and technical assistance and advice to non-profit legal providers.

¹⁶ A 2010 U.S. Supreme Court decision held that criminal court defendants have a right to receive legal counsel on the immigration consequences of their pleadings. See Supreme Court of the United States in *Padilla v Kentucky*. CERTIORARI TO THE SUPREME COURT OF KENTUCKY No. 08–651. Argued October 13, 2009—Decided March 31, 2010

¹⁷ “Recognized Organizations and Accredited Representatives Roster by State and City.” Executive Office for Immigration Review | Recognized Organizations and Accredited Representatives Roster by State and City | United States Department of Justice, 22 Jan. 2024, www.justice.gov/eoir/recognized-organizations-and-accredited-representatives-roster-state-and-city.

¹⁸ Paral, Rob 2021 “Assessing Capacity to Provide Legal Services to Undocumented Immigrants in Illinois” The Resurrection Project.

County Public Defender (CCPD) that provides free legal services to income-eligible individuals with removal cases before the Chicago Detained Immigration Court. Launched in May of 2022, the MIDA pilot merits further examination as it represents one potential model for scaling up legal representation, particularly for detained or complex cases.

The program's twin objectives are to provide legal services on a merits-blind basis to income-eligible individuals who are detained and facing deportation proceedings in the Chicago court, and to build organizational capacity to take on complex removal defense matters. To that end, MIDA pairs organizations that are building new removal defense practices with organizations that have years of experience in taking on complex detained immigration cases. MIDA's capacity-building component includes regular trainings, a shared webpage with resources and templates, and mentorship of new attorneys.

Since its inception, MIDA has provided legal services to over 200 detained immigrants in the Chicago Detained Immigration Court. Legal services include representation in bond and detained removal hearings, appeals before the Board of Immigration Appeals, applications before U.S. Citizenship Immigration Services, and referrals for representation in ancillary matters such as state post-conviction proceedings and federal appeals and habeas corpus petitions.

Early numbers from the program point to successes, both in increasing the rate of representation on the Chicago detained docket and in terms of case outcomes. The Vera Institute of Justice, which has evaluated similar universal representation initiatives across the country, is conducting a multi-year evaluation of the program to measure MIDA's impact. Through January 2024, data from the Transactional Records Access Clearinghouse at Syracuse University shows that of a total of 210 pending deportation cases in the Chicago Detained Court, close to 58% have representation, a significant increase from historical averages over the past decade (which have been approximately 40%).

Resources Needed

Attorney Costs

The Task Force considered various cost scenarios for legal representation. One scenario assumes that 50 percent of cases are represented by experienced legal professionals capable of handling 25 cases per year, and 50 percent of cases are represented by less experienced legal professionals capable of 15 cases per year.¹⁹ Salaries and benefits are estimated at \$125,000 for experienced attorneys and \$100,000 for inexperienced attorneys. These costs amount to an average of \$5,625 per case.²⁰

Another source suggested a \$5,000 per case cost. This amount is based on the experience of the Capitol Area Immigrant Rights Coalition and what the Chicago Mexican consulate, in at least some instances, makes available in attorney costs to Mexican nationals in immigration court.²¹ Additionally, the Task Force expressed some concern that the amounts used in these scenarios may still need to adequately cover attorney costs depending on the complexity of the case and how long it takes to resolve. Complex cases may cost up to \$15,000 per case. This report suggests \$5,625 in average case costs.

The Task Force investigation shall include... the additional resources, including salaries and benefits for attorneys and support staff, training, supervision, and material resources... including mechanisms for subcontracted relationships with independent experts and social service providers... (and) the estimated annual cost of the additional resources...

¹⁹ These caseloads are based on a recognition that many cases have significant activity in their first year.

²⁰ In a year, the cost of one experienced and one inexperienced attorney is \$225,000. Together they can work on 40 cases, for an average case cost of \$5,625.

²¹ Per 4-20-23 discussion with Mexican Consul General of Chicago Reyna Torres and staff.

Costs of Support Staff, Training, Supervision, and Material Resources

Support staff includes paralegals, administrative assistants, expert witnesses, social workers and others. Supervision involves overseeing legal programs, overall organizational administrators, and related staff such as human resources directors and other personnel necessary to operate a legal services organization successfully.

<i>District Name</i>	<i>@\$5,625 average case cost</i>
Support Staff (inc. translation, interpretation, expert testimony, medical and psychiatric evaluations, caseworkers)	@50% of case cost: \$2,800
Supervision	@15% of case costs: \$850
Administrative Costs	@15% of case costs: \$850
Training and Material Resources	@10% of case costs: \$560
Total	\$5,060

Training needs include opportunities to learn about new developments in federal and state immigration-related laws, regulations, and policies. Training can be delivered via shared digital and printed materials, workshops, and telephone or in-person consultations around cases or legal issues. Training materials and techniques exist at many organizations but could be gathered and made available at a central site, and a coordinating agency can deliver legal service training.

Similar to training materials for legal providers, public information materials exist but need to be strategically shared publicly via social media and other platforms. Materials include videos, pdf documents, and other formats. New materials need to be continually gathered and disseminated.

The estimated per-case cost for support, training, supervision, and material resources is \$5,060.

Estimated Total Annual Cost of Additional Resources

The estimated per-case cost for legal representation is \$10,685, the sum of attorney and ancillary expenses.

Attorney costs	\$5,625
Costs of Support Staff, Training, Supervision, and Material Resources	\$5,060
Total	\$10,685

The Task Force shall investigate...the estimated annual cost of the additional resources described (above).

Funding Sources

Apart from certain state-funded programs described in the next section of this report, there are few sources of public funding for legal services.²² Between spring 2023 and December 2023, the City of Chicago invested over \$1 million in legal services related to the Southwestern Border Arrivals. Since 2017, Chicago has also funded a Legal Protection Fund that provides free legal screenings, some representation, and Know Your Rights public education efforts. The Immigration Division of the Cook County Public Defender's Office represents some current and former public defender clients in immigration court.²³

The Task Force investigation shall include... funding sources, public and private, that are or would be available to pay for the additional resources described (above)...

Individual private philanthropic organizations support legal services to some extent, according to each foundation's grantmaking priorities. The Illinois Funders Collaborative raises about \$1 million annually from philanthropy and redistributes the resources to activities, including some legal services.

Existing State Investments in Legal Services

Illinois currently provides funding for legal services to various communities for multiple legal needs. Some major funding sources are as follows. Most funding is not for legal services for immigrants in removal proceedings.

Illinois Access to Justice (ILA2J)

- Illinois provided \$25 million in funds to approximately 80 organizations via the Illinois Access to Justice program in fiscal year 2024.²⁴ ILA2J services include legal representation and are targeted at communities impacted by incarceration and communities impacted by immigration. \$12.5 million in funding is directed to immigration services and \$12.5 million to services for those impacted by incarceration. Approximately 30 percent of funding is allocated to community education, outreach, and navigation, with 70 percent allocated to legal service organizations. About 10 to 15 percent of cases under ILA2J are removal defense for which ILA2J does not cover the full cost of cases.

New Americans Initiative (NAI)

- Through the New Americans Initiative, Illinois funds multiple non-profit organizations that provide assistance, including legal advice, to persons with Deferred Action for Childhood Arrivals and naturalization. NAI received \$8 million in funding annually.²⁵

Legal Assistance to Southwest Border Arrivals

- The state provides \$13 million in funding to non-profit legal service providers to assist new arrivals to apply for work permits, Temporary Protected Status, asylum, and other legal services.

²² Some federal funding is available for representation of minors and for detained adults deemed incompetent to represent themselves. See, for example, <https://acaciajustice.org/what-we-do/#our-programs>

²³ "Immigration Division." Law Office of the Cook County Public Defender, www.cookcountypublicdefender.org/resources/immigration-division. Accessed 29 Jan. 2024.

²⁴ Source: IDHS

²⁵ Source: IDHS

Bond Payment Support

Illinois Residents with Bonds and Bond Values

The number of new cases on the detained Chicago Court docket has been in decline since 2020, and between FY 2021 and 2023, it has hovered between 350 and 450.²⁶ Many of these cases do not involve residents of Illinois.

Data from the immigration court shows the median bond amount requested by IDHS in a recent five-year period was \$6,000, while the median bond set by judges was \$5,000.

Assuming that about 100 Illinois residents per year are detained and their median bond is \$5,000, an estimated \$500,000 per bond cost is needed for Illinois residents.

The Task Force investigation shall include... the estimated annual cost of bond payment support needed for covered individuals facing a covered proceeding, and the feasibility of a State-sponsored bond fund for those individuals.

Additional Findings

State Domiciliary, Non-State Domiciliary, and Regions of Residence

The Act defines “domiciliary” as “an individual who has established a domicile with respect to a particular jurisdiction.” A “domicile,” per the Act, is “a true, fixed, and permanent legal home of an individual or the place to which the individual intends to return even though the individual may reside elsewhere.”

The Task Force investigation shall provide additional findings (on)... State domiciliary versus non-State domiciliary covered individuals, and, among the State domiciliary covered individuals, the regions of residence within the State.

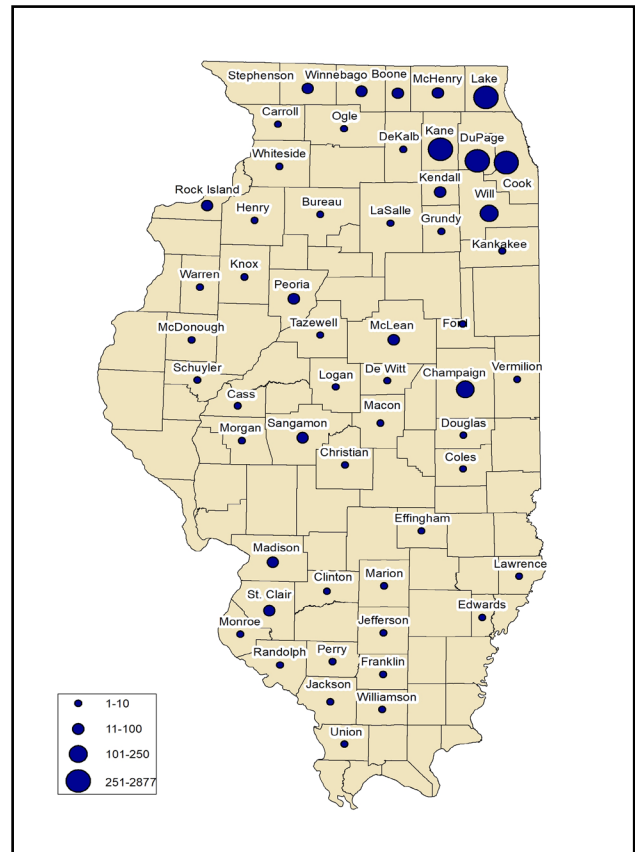
Estimates of Domiciliaries

Illinois domiciliaries include residents facing removal in Chicago immigration court and residents whose removal is being considered in immigration courts outside of Illinois. In 2018-2022, there were an average of 4,870 Illinois residents with hearings in Chicago immigration court and 235 with hearings elsewhere. In the same period, some 3,599 persons in Chicago immigration court proceedings were not domiciliaries because they were not Illinois residents. As noted earlier, the Act considers non-domiciliaries as “covered individuals” if their removal proceedings are conducted in Illinois.

Total		8,704
Illinois Residents	In Chicago Court	4,870
	Not in Chicago Court	235
Non-Illinois Residents	In Chicago Court	3,599
Source: EOIR database		

²⁶ New Proceedings Filed in Immigration Court, trac.syr.edu/phptools/immigration/ntanew/. Accessed 29 Jan. 2024.

Figure2: County of Residence of Non-Detained Persons in Immigration Court: 2022



Regions of Residence

The map below displays the county of residence of non-detained Illinois residents who had proceedings in the Chicago immigration court in 2022. The source of the information is the Executive Office for Immigration Review.

Of non-detained Illinois residents in immigration court in 2022, the most significant number had residences in Cook County at 2,877, DuPage County at 508, and Lake County at 323. The top municipalities of residence were Chicago at 1,750, Aurora at 151, and Waukegan at 142 persons.

Table9: Top Ten Counties of Residence of Non-Detained Illinois Immigrants in Immigration Court in 2022	
Total	4,748
Cook	2,877
Dupage	508
Lake	323
Kane	264
Will	186
Champaign	126
McHenry	73
Winnebago	70
Rock Island	32
McLean	29
<i>Source: EOIR case database</i>	

Table10: Top Tewn Places of Residence of Non-Detained Illinois Immigrants in Immigration Court in 2022	
Total	4,828
Chicago	1,750
Aurora	151
Waukegan	142
Elgin	125
Cicero	82
Bensenville	78
Schaumburg	74
Champaign	73
Des Plains	69
Rockford	68
<i>Source: EOIR case database</i>	

Household Income

Approximately 68 percent of undocumented immigrants in Illinois have incomes below 250 percent of the poverty level, according to information from the Center for Migration Studies New York (CMSNY). CMSNY assigned immigration status to American Survey Records records.²⁷

The Task Force investigation shall provide additional findings (on)... household income above and below 250% of the federal poverty line

Rates of Representation

EOIR data on Illinois residents in immigration court in 2022 suggest a representation rate of about 60 percent. This finding is based on whether a form E-28 has been filed for a case.²⁸ Task Force members questioned whether the actual representation rate may be lower, i.e., having counsel from an initial calendar hearing through final case disposition.

The Task Force investigation shall provide additional findings (on)... current percentages of covered individuals in covered proceedings with and without legal representation.

Table11: Top Ten Counties of Residence of Non-Detained Illinois Immigrants in Immigration Court in 2022

	<i>Total</i>	<i>Represented</i>	<i>Not Represented</i>	<i>Percent Represented</i>
Total	9,685	5,472	4,213	56.5%
Illinois Resident*	5,253	3,127	2,126	59.5%
Not an Illinois Resident	4,432	2,345	2,087	52.9%

**Includes Illinois residents in courts outside Illinois
Source: EOIR database*

²⁷ Source: CMSNY data provided to Rob Paral.

²⁸ Form EOIR-28 "Notice of Entry of Appearance as Attorney or Representative Before the Immigration Court"

Appendices

FY2022 Access to Justice Grantees Providing Legal Services to Immigrants

- Alianza Hispanoamericana NFP, Inc.
- Ascend Justice
- Beyond Legal Aid
- Binational Institute of Human Development
- Catholic Charities of the Archdiocese of Chicago
- Center for Information of Elgin dba Centro de Información
- Centro de Trabajadores Unidos: United Workers' Center
- Centro Romero
- Chicago Community and Workers' Rights
- Chicago Volunteer Legal Services
- Chicago Workers Collaborative
- Children's Legal Center
- Community Help Center (dba) Muslim Women Resource Center
- Ecker Center for Behavioral Health
- Erie Neighborhood House
- Farmworker and Landscaper Advocacy Project - FLAP
- Greater Chicago Legal Clinic, Inc.
- HANA Center
- Heartland Alliance for Human Needs & Human Rights - National Immigrant Justice Center
- Hispanic American Community Education & Services (HACES)
- Illinois Legal Aid Online (ILAO)
- Indo-American Center
- Instituto del Progreso Latino
- Legal Aid Chicago
- Logan Square Neighborhood Association
- Legal Aid Society of Metropolitan Family Services
- North Suburban Legal Aid Clinic
- Northern Illinois Justice for Our Neighbors
- Northwest Side Housing Center
- Partners for Our Communities (POC)
- Southwest Organizing Project
- Spanish Community Center
- Syrian Community Network
- The Immigration Project
- The Resurrection Project
- United African Organization
- Western Illinois Dreamers
- YMCA of the University of Illinois
- YWCA Northwestern Illinois

Other Organizations

- Addison Public Library
- Administer Justice
- Alliance for Immigrant Neighbors
- Alliance of Filipinos for Immigrant Rights and Empowerment
- Arab American Family Services
- Berwyn Public Library
- Casa Michoacan
- Catholic Charities Archdiocese of Dubuque
- Catholic Charities Diocese of Rockford
- Chicago-Kent College of Law Immigration Clinic
- Chicagoland Immigrant Welcome Network
- Chinese American Service League
- Chinese Mutual Aid Association
- Council on American Islamic Relations
- DePaul Legal Clinic
- Diocese of Davenport Immigration Program
- Diversity Service Center of Iowa
- Esperanza Legal Assistance Center

- Ethiopian Community Association of Chicago
- Family Focus
- Frida K Community Organization
- Glenside Public Library
- Hanul Family Alliance
- International Community Alliance
- Irish Community Services
- Jewish Community and Family Services
- Latinos Progresando
- Life Span
- Mano a Mano Family Resource Center
- Middle Eastern Immigrant and Refugee Alliance
- Migrant and Immigrant Community Action
- Mil Mujeres
- Northwestern U. School of Law Seigle Clinic
- Polish American Association
- RefugeeOne
- Rock Valley College
- Southwest Suburban Immigrant Project
- The Refugee Center
- University of Chicago Immigrants' Rights Clinic
- Valley Immigrant Advocates
- Vietnamese Association of Illinois
- World Relief
- YWCA Elgin

Top 10 Immigration Court Sites for Illinois Residents with Proceeding in 2022 Outside of Chicago

Top 10 Immigration Court Sites for Illinois Residents with Proceeding in 2022 Outside of Chicago	
<i>Immigration Court Location</i>	<i>Illinois Residents with Proceeding</i>
El Paso	43
Kansas City	35
San Antonio	35
Denver	26
New York	18
Houston	17
Harlingen	15
Imperial	15
Newark	15
Orlando	15
<i>Source: EOIR case database</i>	

Immigration Court Site for Illinois Residents with Proceeding in 2022

Immigration Court Site for Illinois Residents with Proceeding in 2022			
Unreported	83	Jena	2
Arlington	9	Kansas City	35
Atlanta	11	Las Vegas	4
Baltimore	3	Los Angeles	2
Boston	3	Los Fresnos	1
Buffalo	12	Lumpkin	2
Chaparral	1	Memphis	2
Charlotte	4	Miami	12
Chicago	4788	New Orleans	9
Cleveland	5	New York	18
Dallas	13	Newark	15
Denver	26	Oakdale	1
Detroit	11	Orlando	15
El Paso	43	Otay Mesa	1
Eloy	3	Pearsall	5
Fort Snelling	6	Philadelphia	3
Guaynabo	3	Phoenix	5
Harlingen	15	San Antonio	35
Hartford	5	San Diego	8
Houston	17	San Francisco	1
Imperial	15	West Valley	1
<i>ource: EOIR case database</i>			

Organizations with Accredited Representatives

Top 10 Immigration Court Sites for Illinois Residents with Proceeding in 2022 Outside of Chicago			
Name	Number of Accredited Representatives	Name	Number of Accredited Representatives
Alianza Hispanoamericana NFP, Inc.	3	Jewish Child & Family Services	1
Alliance for Immigrant Neighbors	3	Latinos Progresando	3
Ascend Justice	1	Life Span Center for Legal Services & Advocacy	6
Berwyn Public Library	1	Logan Square Neighborhood Association	1
Catholic Charities Diocese of Rockford Refugee and Immigration Services	4	Mano a Mano Family Resource Center	2
Catholic Charities of the Archdiocese of Chicago	4	Middle Eastern Immigrant and Refugee Alliance (MIRA)	6
Centro de Informacion	2	North Suburban Legal Aid Clinic	3
Centro Romero	2	Opportunities for All, Inc.	1
Chinese American Service League	2	Polish American Association	1
Chinese Mutual Aid Association	1	Pregen, Inc.	2
Community Help Center Muslim Women Resource Center	3	Pui Tak Center	1
Erie Neighborhood House	3	RefugeeOne	1
Esperanza Legal Assistance Center	2	Rock Valley College	2
Family Focus Aurora	4	Southwest Suburban Immigrant Project	2
Family Focus Cicero	0	Spanish Community Center	3
Frida Kahlo Community Organization	1	Syrian Community Network	2
Glenside Public Library District	2	The Hispanic American Community Education & Services / HACES	2
HANA Center	1	The Immigration Project, Inc.	3
Hanul Family Alliance	2	The Resurrection Project	5
Heartland Alliance for Human Needs & Human Rights, National Immigrant Justice Center	8	United African Organization	3
Illinois Coalition for Immigrant and Refugee Rights (ICIRR)	1	Valley Immigrant Advocates	2
Instituto del Progreso Latino	4	Vietnamese Association of Illinois	1
International Humanitarian Relief	1	World Relief	3
Irish Community Services	1	YMCA of the University of Illinois	16

Source: U.S. Department of Justice, July 2023

Presentations to the Task Force

- Guadalupe Perez, Midwest Immigrant Bond Fund. May 12, 2023.
- Emily McCabe, Senior Staff Attorney at the American Bar Association's Commission on Immigration, and Karen Lucas, Senior Consultant, Welcome.US. June 15, 2023.
- Eric Lopez, Deputy Program Director, Capitol Area Immigrant Rights Coalition. July 14, 2023.

Right to Counsel in Immigration Proceedings Act

Public Act 102-0827

Section 1. Short title. This Act may be cited as the Right to Counsel in Immigration Proceedings Act.

Section 5. Purpose; findings.

(a) The State is committed to fair and equal treatment of all individuals, and, in particular, of individuals at risk of removal and separation from their families through the federal immigration detention and deportation system.

(b) While an individual in removal proceedings has the right to legal representation, the representation is at the individual's own expense and may be beyond the financial capacity of low-income households.

(c) Nearly two-thirds of all individuals facing immigration removal proceedings throughout the United States lack legal representation. Among the individuals in immigration detention, only one in 6 individuals were represented by counsel. Among the individuals facing removal proceedings in this State, less than one in 3 individuals, generally, and less than one in 8 individuals in detention were represented by counsel.

(d) Legal representation is essential to effective identification and presentation of avenues for release from detention and relief from removal. Individuals in immigration detention are 4 times more likely to win release if represented by legal counsel than individuals without representation by legal counsel. In removal proceedings, detained individuals are 11 times more likely to succeed in claims for relief if represented by legal counsel than individuals without representation by legal counsel.

(e) Legal representation in removal proceedings has improved the efficiency of the proceedings and the administration of justice as individuals are better able to present their defenses and claims for relief.

(f) It is the public policy of this State that all covered individuals should have the right to ongoing legal representation in covered proceedings. This right to counsel should include provisions of funds sufficient to ensure that legal service providers are funded to:

- (1) engage support staff, interpretation staff, and investigative staff;
- (2) contract as reasonably necessary with independent experts, including country conditions experts and forensic medical experts; and
- (3) contract as reasonably necessary with social service providers providing supportive and rehabilitative services to covered individuals during the course of their removal proceedings.

(g) This State should establish a program and a dedicated fund to provide the legal services described in subsection (f).

Section 10. Definitions. As used in this Act:

"Covered individual" means any individual subject to removal proceedings under 8 U.S.C. 1225, 1228, and 1229a or a final order of removal under 8 CFR 1241.1, including any related covered proceeding, regardless of age, who is: (i) a domiciliary of this State; or (ii) an individual who is not a domiciliary of this State if removal proceedings are conducted against the individual in this State.

"Covered proceeding" means any proceeding in which a covered individual is a party and is seeking an avenue of relief from removal from the United States or is challenging his or her arrest or detention under the Immigration and Nationality Act and its implementing regulations. "Covered proceeding" includes:

- (1) a proceeding or hearing in an immigration court and any related application to United States Citizenship and Immigration Services connected to the proceeding or hearing;
- (2) an immigration proceeding conducted by telephone or video teleconference;
- (3) a proceeding in a State court for purposes of obtaining a special findings order;
- (4) a proceeding in a State court for purposes of vacating a conviction or modifying a sentence in which the conviction or sentence is relevant to the immigration proceedings at issue;
- (5) a credible fear interview or reasonable fear interview;
- (6) a habeas corpus petition to a federal district court challenging detention under the Immigration and Nationality Act;
- (7) a motion to reopen or reconsider under 8 U.S.C. 1229a;
- (8) a petition for review under 8 U.S.C. 1252;
- (9) a remand to a federal district court from the United States Court of Appeals for fact-finding purposes; and
- (10) any appeal related to any of the foregoing to the Board of Immigration Appeals, the United States Court of Appeals, or the United States Supreme Court.

"Domicile" means a true, fixed, and permanent legal home of an individual or the place to which the individual intends to return even though the individual may reside elsewhere.

"Domiciliary" means an individual who has established a domicile with respect to a particular jurisdiction.

"Immigration court" means a tribunal of the Executive Office for Immigration Review, or a successor entity, tasked with deciding the inadmissibility or deportability of a noncitizen of the United States that is presided over by an immigration judge as defined in 8 U.S.C. 1101(b)(4).

"Legal services" means individual legal assistance in a single consultation, or ongoing legal representation, provided by a legal services provider to a covered individual, and all legal advice, advocacy, and assistance associated with the service.

"Legal services provider" means an individual, organization, or association that has the authority to provide legal services.

Section 15. Task Force on Counsel in Immigration Proceedings.

- (a) The Task Force on Counsel in Immigration Proceedings is established.
- (b) The Task Force shall consist of the following 7 members:
 - (1) the Governor, or his or her designee;
 - (2) the President of the Senate, or his or her designee;
 - (3) the Minority Leader of the Senate, or his or her designee;
 - (4) the Speaker of the House of Representatives, or his or her designee;
 - (5) the Minority Leader of the House of Representatives, or his or her designee;
 - (6) the Attorney General, or his or her designee; and

(7) the Secretary of Human Services, or his or her designee.

(c) Members of the Task Force shall serve without compensation.

(d) The Department of Human Services shall provide administrative and other support to the Task Force.

(e) The Task Force shall investigate the implementation of universal representation for covered individuals in immigration removal proceedings as described in subsection (f) of Section 5. The Task Force investigation shall include, but is not limited to, the following matters:

(1) the estimated number of covered individuals facing a covered proceeding;

(2) the current infrastructure for providing independent, competent, and zealous legal representation in a covered proceeding;

(3) the additional resources, including salaries and benefits for attorneys and support staff, training, supervision, and material resources that would need to be added to the existing infrastructure described in paragraph (2) in order to provide independent, competent, and zealous legal representation for the number of covered individuals described in paragraph (1), including mechanisms for subcontracted relationships with independent experts and social service providers;

(4) the estimated annual cost of the additional resources described in paragraph (3);

(5) funding sources, public and private, that are or would be available to pay for the additional resources described in paragraph (3); and

(6) the estimated annual cost of bond payment support needed for covered individuals facing a covered proceeding, and the feasibility of a State-sponsored bond fund for those individuals.

(f) In order for the Governor and General Assembly to evaluate different scopes of legal representation in immigration court proceedings, the Task Force investigation described in subsection (e) shall provide additional findings in the following categories:

(1) State domiciliary versus non-State domiciliary covered individuals, and, among the State domiciliary covered individuals, the regions of residence within the State;

(2) household income above and below 250% of the federal poverty line;

(3) type of proceedings in which the covered individuals need legal representation; and

(4) current percentages of covered individuals in covered proceedings with and without legal representation.

(g) The Task Force shall submit a report of its findings in the investigation described in subsection (e) and its recommendations for how to fully provide legal representation for covered individuals facing covered proceedings no later than July 1, 2023.

Section 20. Repeal. This Act is repealed on July 1, 2024.

Section 99. Effective date. This Act takes effect upon becoming law.

Illinois Department of Human Services

**Great Cities Institute at
University of Illinois Chicago
April, 2024**

