

Judiciary Committee JOINT FAVORABLE REPORT

Bill No.: SB-991

AN ACT CONCERNING ACCESS TO LEGAL COUNSEL FOR INDIGENT

Title: INDIVIDUALS IN IMMIGRATION REMOVAL PROCEEDINGS

Vote Date: 3/20/2019

Vote Action: Joint Favorable Substitute

PH Date: 2/22/2019

File No.:

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REASONS FOR BILL:

This bill establishes a right to legal representation in immigration removal proceedings at the Connecticut Executive Office for Immigration Review.

SUBSTITUTE LANGUAGE:

The substitute language changes the definition of “eligible respondent” to an individual who is subject of a removal proceeding at the Connecticut Executive Office for Immigration Review, and at the time of proceeding was either an accompanied minor, or under eighteen without lawful immigration status in the custody of the federal Department of Health and Human Services. The substitute language removes individuals who are eighteen years of age or older or who are indigent from the definition of “eligible respondent.” The substitute language defines “unaccompanied minor” and establishes a system for the Judicial Branch to provide grants to organizations to provide legal counsel for eligible respondents. The Judicial Branch is required to report information on the grants annually. The substitute language also adds a second section, which establishes a task force to study and report on the legal needs of indigent state residents subject to removal proceedings, and how best to deliver and pay for that legal representation.

RESPONSE FROM ADMINISTRATION/AGENCIES (SUPPORT):

Attorney General William Tong:

Many of our state’s residents, including children, are forced to confront the full power of the federal government in removal proceedings without any legal guidance or aid. Studies show detained immigrants with counsel are eleven times more likely to remain in the United States. The most common reason why immigrants are frequently without counsel is that they cannot afford the cost. Connecticut should protect its most vulnerable residents. *(Although Attorney General Tong and many others testified regarding the original bill referencing indigent immigrants, the substitute language removed the eligibility of such indigent immigrants to access legal counsel.)*

RESPONSE FROM PUBLIC OFFICIALS (SUPPORT):

President Pro Tempore Senator Martin Looney (11th):

This bill will help ensure the least among us have their rights protected. Over 80% of children who show up to court unrepresented were ultimately deported, compared to just 12% of minors with a lawyer. There is a backlog of 5,689 immigration cases in Connecticut, representing an increase of 330% in the past ten years. This bill will ensure those cases are processed with respect to the rights of immigrants, and unaccompanied minors in particular.

RESPONSE FROM THE PUBLIC (SUPPORT):

Adam Ben Abrams:

There are two examples from witnessing federal immigrant court proceedings that prove this bill should be passed. First, in many cases defendants do not have legal representation and cannot understand the law. Second, the judge requires bail the defendants cannot meet.

American Immigration Lawyers Association:

Only 37 percent of all immigrants in removal proceedings and 14 percent of detained immigrants have counsel. Detained immigrants with counsel are twice as likely to obtain relief from deportation; represented immigrants who have never been detained, nearly 5 times as likely. There were 295 deportation cases initiated against 295 Connecticut children in 2017, 61 percent of these children (181) appeared without a lawyer. This bill would change that.

Robert T. Andrews:

Access to legal counsel should be provided as a right in removal proceedings. Indigent status should not bar one's ability to obtain counsel.

Bobby Berriault:

Through observing immigration court proceedings it is obvious that many immigrants do not have legal counsel, nor do many immigrants understand the law. Affording counsel is not possible for many families.

Danielle Combs:

Having represented several immigrant children, it is near impossible for many immigrant children to obtain adequate legal counsel. The benefits to counsel cannot be understated, and this bill would ensure immigrants have a fair chance during immigration proceedings.

Janet Conley:

Through observing immigration court proceedings it is obvious that legal counsel is necessary at all steps of the removal process. On numerous occasions, immigrants are left vulnerable by the power of the federal government without the ability to defend themselves.

Connecticut Legal Services, Joanne Lewis

The Connecticut Legal Services (CLS) suggest specific changes, such as adding "within available appropriations." The CLS approves of the funding system for providing counsel to immigrants through grant disbursement. (*The CLS proposed changes are reflected in the substitute language*).

Connecticut Bail Fund:

Legal representation for individuals in removal proceedings should be a guaranteed right for all. These are the only proceedings where people are caged and required to fight for their freedom without counsel. The Connecticut Bail Fund suggests raising the definition of “indigent” to an annual maximum income of 200% of the federal poverty guidelines.

Karen Dworski:

Removal from the US affects not only the person deported but also their family and livelihood for that family. A just process should include access to counsel.

ACLU People Power, Marianna Hebenstreit:

The Immigration Court Observer Program was started with guidance from the ACLU CT to oppose the immigration policies of the federal government. This bill will address many of the concerns immigrants face in removal proceedings by simply providing them with counsel.

Center for Children’s Advocacy, Patricia Marealle and Martha Stone:

There is no right to government-appointed counsel in removal proceedings, even for children, and only on-fourth of unaccompanied children facing deportation are represented by an attorney. Deportation proceedings are formal and complex, conducted in English, and have a high possibility of legal or factual error with devastating consequences. All immigrants, and children in particular, should have access the legal counsel.

Amy Martin:

There are few avenues for indigent immigrants to access counsel. A high quality immigration attorney may cost over \$6,000 and there are few pro bono options in Connecticut; in Hartford, there are none.

American Civil Liberties Union CT, Executive Director, David McGuire:

The ACLU-CT has a court watch program which observes immigration removal proceedings in Hartford immigration court. The increase in immigrants, especially young children, makes access to counsel especially important. Every person in a criminal trial has a right to counsel, this is not the same for immigration proceedings. The human and financial cost of not having lawyers in removal proceedings is too high.

New Haven Legal Assistance Association, Inc., Staff Attorney, Ellen Messali:

As an attorney who represents numerous individuals in immigration removal proceedings, more and more clients are children. It is ludicrous and shameful to ask young children to represent themselves in removal proceedings. Unfortunately, it happens too often.

Marjola Nelson:

Many immigrants go before the courts without legal representation. The result is a mechanical exercise with the outcome predetermined, which is a far cry from justice.

New Britain Area League of Women Voters, Board of Directors:

The organization supports this bill.

Terry Perrelli:

Through observing removal proceedings it is too common to see immigrants deported simply because they do not have money for a lawyer to adequately represent them.

Democratic Town Committee of New Britain, Executive Board, Ann Speyer:

American society has upheld the need for legal representation for serious life impacting matters through the requirement that counsel be provided in such matters.

Ann Speyer:

From watching removal proceedings, it is clear that immigrants in ICE detention who appear before the court have no idea what defenses the law provides. It is no wonder the immigrants are summarily deported. This is a country of immigrants and this bill honors that history.

Kenneth Speyer:

As a court observer, there is an obvious difference between how immigrants are treated who have counsel from those that do not have counsel. The impacts of that treatment are profound. This bill ensures fair, equal treatment to all immigrants.

Michael Thomas:

This is one area of immigration law that states can impact. Watching immigration proceedings, it is challenging to accept the clear power imbalance. This law corrects that.

Shari Van Ness:

From observing immigration court, there are three takeaways one will notice: A list of resource organizations for pro bono services is a “long shot,” judges give legal advice to immigrants who have no counsel or means of understanding such advice, and many immigrants have no concept of the legal process. This is unfair.

Stephen Varga:

Having practiced immigration law for 35 years, it is hard to believe so many immigrants go to court without representation – about 61% of children, only 5% of which were successful without an attorney. Representation in Immigration Court will give the respondents an opportunity to effectively present a case.

David Zemelsky:

This bill is a way to address a near or impossible situation for undocumented detainees. It ensures that money and language are no barrier to justice.

RESPONSE FROM THE PUBLIC (OPPOSITION):

Jane Bate:

This bill is antithetical to the spirit of U.S. immigration principles and border security as well as to the financial health of Connecticut. The bill should be opposed to preserve the rule of law, maintain our safety, safeguard our cultural identity and prevent unnecessary spending.

Kelly Devanny:

This bill uses CT taxpayer funds for legal defense or other support for illegal aliens who enter the country illegally and break United States law. It should not be supported.

Cathy Hopperstad:

This bill does not uphold the Constitution, and takes away resources from American citizens.

Reported by: Robert J. Anderson

Date: March 28, 2019

