

Memorandum in Support

February 17, 2026

NYSBA #1-A

A. 270

By: M of A Cruz

Senate Committee: Finance

Assembly Committee: Codes

Effective Date: 90 days after passage

AN ACT to amend the Executive Law to establish the right to legal counsel in immigration court proceedings and providing for the administration thereof.

LAW AND SECTION REFERRED TO: Adding a new Section 94-e to the Executive Law.

THE NEW YORK STATE BAR ASSOCIATION **SUPPORTS THIS LEGISLATION**

The The New York State Bar Association strongly supports the Access to Representation Act (A.270), legislation that will advance New York State’s national leadership in support of access to counsel and immigration policy that is welcoming and centers human dignity. This legislation would promote the State Bar Association’s House of Delegate’s June 15, 2019 Resolution in support of the enactment of a New York State statutory right to counsel in immigration proceedings.

The Access to Representation Act

Although immigration removal cases involve one of the most highly complex areas of United States law, immigrants targeted by federal officials for deportation do not have the right to a lawyer if they cannot afford one. New York State has been the national leader in supporting legal services for immigrants, but thousands are still forced to fight for their lives in immigration court on their own.¹ The Access to Representation Act would support strong and stable communities and promote fairness and dignity by establishing a right to a government-funded lawyer for people at risk of deportation in New York State.

The stakes could not be higher for people facing deportation—permanent separation from families and communities and possible return to dangerous or deadly conditions in another country—yet legal assistance is available to only those who can afford it. Having a lawyer makes a dramatic difference: When represented by an attorney, detained immigrants are 10 times more likely to establish the right to remain in the United States

¹ “Individuals in Immigration Court by Their Address, Pending Cases With and Without Attorneys,” TRAC Syracuse University, available at <https://trac.syr.edu/phptools/immigration/addressrep/>.

and 3.5 times more likely to be released from detention.² For non-detainees people, those 60 percent with lawyers win their cases compared with 17 percent of those who are unrepresented.³

Supporting a right to counsel for immigrants will benefit all New Yorkers. Immigrants in this state own more than 300,000 businesses, account for one quarter of the workforce, and have an estimated \$118 billion in annual spending power.⁴ During the global pandemic, they performed life-saving work that sustained our economy and safeguarded health and safety, and were disproportionately on the front lines as essential workers.⁵

New York's leadership in advancing publicly-funded immigration legal services like the New York Immigrant Family Unity Project and the Liberty Defense Project has made it a respected national model. More than 50 states, counties, and cities have followed New York's lead by investing in deportation defense programs.⁶ These jurisdictions have invested in these programs as a component of their efforts to safeguard public health and safety and to stand with immigrants and communities historically targeted by racial injustice.

The time has come for New York to take the next step in support of immigrant communities, with the visionary passage of the Access to Representation Act and the establishment of a groundbreaking right to representation for all people in New York facing deportation.

With the passage of the Access to Representation Act and other policies in support of a welcoming immigration system that centers human dignity, New York can continue to stand with its immigrant neighbors in the face of federal enforcement. The first Trump administration implemented over 400 anti-immigrant executive actions,⁷ most of which continue in effect, targeting immigrants and limiting due process. At the start of his second term, even harsher immigration policies were implemented, increasing funding for ICE (Immigration and Customs Enforcement) and granting agents broad and unprecedented power. ICE arrested at least 4,660 people in New York State in the first

² Ingrid V. Eagly and Steven Shafer, "A National Study of Access to Counsel in Immigration Court," *University of Pennsylvania Law Review* 164, no. 1 (2015), <https://perma.cc/7J65-CZCM>.

³ *Id.*

⁴ Vera Institute of Justice, "Profile of the foreign-born population in The State of New York," <https://www.vera.org/audio/foreign-born-population-nys.pdf>.

⁵ Fiscal Policy Institute, "Legal Status for Undocumented Essential Workers: New York Gains," estimating there are 380,000 undocumented essential workers in NYS, <https://fiscalspolicy.org/legal-status-for-undocumented-essential-workers-new-york-gains>

⁶ See map of publicly funded deportation defense programs, "Advancing Universal Representation Initiative," Vera Institute of Justice, <https://www.vera.org/ending-mass-incarceration/reducing-incarceration/detention-of-immigrants/advancing-universal-representation-initiative>.

⁷ Migration Policy Institute, "Dismantling and Reconstructing the U.S. Immigration System: A Catalog of Changes under the Trump Presidency," July 2020, https://www.migrationpolicy.org/sites/default/files/publications/MPI_US-Immigration-Trump-Presidency-Final.pdf

seven months of 2025, and immigration advocates believe that this number is likely missing many cases.⁸

With the reinstatement of President Trump, immigrants have never been at a greater risk of deportation. It is more crucial than ever before that New York State advances policies that promote freedom, fairness, and family unity. Supporting a right to representation for everyone facing immigration proceedings, including deportation and/or dangerous federal detention conditions, will do that.

Passage of the Access to Representation Act will ensure that thousands in New York who currently confront immigration court will at last have the security of representation. At the same time, recognizing the complex needs of individuals facing removal proceedings, New York State should also expand access to social workers and other critically-needed support services to assist such individuals with addressing the trauma many faced both in their countries of origin and also often in ICE detention. Social service support can also help people access the resources they need to rebuild long-term stability after being freed from detention and the threat of deportation. In addition, for those facing immigration proceedings while detained by ICE, litigation in federal court is often the only means of gaining release from unlawful and dangerous detention conditions, but resources for such federal litigation are scarce. To promote due process and mitigate the harm caused by years of anti-immigrant policies, the Access to Representation Act would ensure increased access to federal litigation in this complex legal field.

For as long as immigrant New Yorkers are torn from their families and communities by the federal government, New York's leadership in support of defense representation for immigrants will be a powerful reflection of this state's firm and ongoing commitment to its immigrant communities. Passing the Access to Representation Act and becoming the first state in the nation to establish a statutory right to representation for immigrants facing deportation will support strong and stable immigrant communities and demonstrate the promise of welcoming immigrant policies to other states and the federal government.

Based on the foregoing, the New York State Bar Association **SUPPORTS** this legislation.

⁸ Munson, E. (2025, September 26), *Where IC has arrested thousands of immigrants across New York this year*, Times Union, [Here's where ICE is arresting immigrants in New York](#)