



NEW YORK STATE
BAR ASSOCIATION

Report and Recommendations of the New York State Bar Association **Committee** **on Immigration** **Representation Report**

April 2026

Cover Note

To: NYSBA House of Delegates Reports Group

From: New York State Bar Association Committee on Immigration Representation

Subject: Federal Immigration Enforcement and Access to Justice in New York State

Date Approved: January 29, 2026 by the Committee on Immigration Representation

Summary

The attached report, *Federal Immigration Enforcement and Access to Justice in New York State*, (the “Report”) was prepared by the New York State Bar Association (NYSBA) Committee on Immigration Representation, composed of representatives of various Sections and Committees of the NYSBA (the “Committee”). The Committee on Immigration Representation held a public hearing on November 13, 2025, which informs this Report. This Report examines the impact of intensified federal immigration enforcement on immigrant communities, courts, and nonprofit legal services providers across New York State, and offers concrete legislative and policy recommendations to preserve due process, protect court access, and ensure meaningful access to legal representation.

Purpose and Scope

- Review of hearing record and written testimony from a broad range of nonprofit legal services providers, advocacy organizations, former immigration judges, and public officials describing current enforcement practices and the impact on access to justice.
- Analysis of changes in federal enforcement policy and practice, including expanded detention, courthouse enforcement, accelerated removals, and litigation challenging New York State and local protections.
- Assessment of strain on legal infrastructure, documenting increased caseloads, resource constraints, and the growing complexity of immigration legal practice in New York State.
- Discussion of New York State protections and programs, including the Protect Our Courts Act, the New York Immigrant Family Unity Project, the Immigrant Justice Corps, and the Regional Immigration Assistance Centers.
- Recommendations for law and policy in New York State and nationally to preserve access to justice and the rule of law.

Key Themes

- The rapid escalation of federal immigration enforcement through executive action and administrative policy, and its destabilizing effects on immigrant communities.
- The chilling effect of courthouse enforcement and detention practices on access to state courts, particularly Family Court and other civil proceedings.

- The essential role of nonprofit immigration legal services providers in safeguarding due process, and the limits of existing capacity under current enforcement conditions.
- The importance of state and local action to preserve federalism, court integrity, and access to justice.
- New York’s continued leadership—and increasing vulnerability—in protecting immigrant rights and the rule of law.

Action Requested

The Committee respectfully submits this Report for review and consideration by the House of Delegates. The Report is intended to inform policy deliberations and recommends that the House of Delegates adopt a resolution to support the specific proposals for change in law and policy set forth in the Report.

Attachments

- Full Report
- Appendices Summary of Written and Oral Testimony provided at the Public Hearing

Title Page

Federal Immigration Enforcement and Access to Justice in New York State

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Federal Immigration Enforcement and Access to Justice in New York State

I. Introduction

Since January 2025, the Trump Administration (the “Administration”) has upended long-established immigration law and policy, unpredictably interpreted and applied the laws under which immigration lawyers practice, and deployed aggressive law enforcement tactics by Immigration and Customs Enforcement (ICE) and Customs and Border Protection (CBP) on immigrant populations in New York State and across the nation. Countless immigrants, even those who are naturalized or were lawfully admitted to the United States, now live precariously, without essential services such as education and health care due to the fear of federal enforcement.

The impact of current immigration policy and enforcement has swept widely, affecting a cross-section of our legal profession and the communities they serve in profound ways. The current turbulence in immigration law and policy will have long-term implications for civic life in the many communities affected and for our system of justice. It will also reshape how legal service organizations and their staff assist their clients. The need to support and expand these efforts is urgent and escalating.

The scale and reach of federal immigration enforcement is unprecedented and will continue to expand. The 2025 Budget Bill allocated \$45 billion of additional funds for immigration enforcement over three years.¹ What was proposed to the American people as a means to detain and deport those immigrants in the United States who have committed violent crimes and present a threat to their communities has been implemented as a much broader drive to deport immigrants on a mass scale, targeting communities and workplaces based on ethnic identity, nationality, and income level. American citizens as well as those who have applied through well-defined legal processes for citizenship have been detained in enforcement actions.

The challenge to the rule of law and our civic life is profound, affecting broad parts of the population, focused on those who are most vulnerable, not only by virtue of legal status but based on race, income level and nationality. The ongoing practices of targeting populations, not individuals, and of detaining people without a judicial warrant or probable cause—violations of due process and the guardrails of law enforcement—are eroding the rights of Americans across the nation. Pending New York legislative bills and the other recommendations in this Report address the rights of all New Yorkers, not just immigrants.

This Report, prepared by the Committee on Immigration Representation (the “Committee”), composed of representatives from several Committees and Sections of NYSBA with an interest and expertise in the subject matter, draws upon the written and oral testimony of 17 representatives from non-profit organizations and others dedicated to providing legal services to immigrant populations at a November 13, 2025 hearing held by the NYSBA Committee on Immigration

¹ Pub. L. No. 119-21, § 90003, 139 Stat. 72, 358 (2025) (amending funding eligibility rules for asylum processing).

Representation (the “Committee”). A summary of the testimony is attached as an Appendix.² This testimony provided data, observations and recommendations that undergird this Report. It underscored how the nature and scope of recent federal actions and tactics threaten fundamental American values of access to justice, due process, and the rule of law. The Report should be viewed through that broader lens.

The testimony presented to the Committee also captured the extraordinary challenges that immigration attorneys and advocates face in representing their clients. In an Administration which at times defines opposition to its policies as a challenge to its authority or even unlawful, immigration attorneys have come under attack.³ They serve on the front line against the onslaught of federal immigration enforcement. They also bear witness to the trauma experienced by their clients who are separated from family members, detained without cause, and deported in the middle of legal proceedings, sometimes to a third country.⁴ As stated at the hearing by Christine Fecko of the Interest on Lawyer Account (IOLA) Fund, these counsel “lead with evidence, equity and resolve.” These legal service providers represent the best in the tradition of our profession to serve those who are most vulnerable among us.

II. Executive Summary

Under the current Administration, federal immigration policy and enforcement practices have shifted rapidly and dramatically. Testimony before the Committee described an unprecedented volume of executive action reshaping long-standing immigration frameworks, aggressive enforcement tactics in and around courts and other public institutions, expanded detention, widespread use of expedited removal, and narrowing access to legal remedies. Witnesses from across New York State reported that these changes have destabilized immigrant communities, chilled participation in civic institutions, and placed extraordinary strain on the nonprofit legal sector that is essential to due process and the rule of law.

This Report documents the impact of these developments on New York’s immigrant communities and on the attorneys and organizations that represent them. It draws on extensive written and oral testimony presented by nonprofit legal service providers, philanthropic funders, impact-litigation organizations, former immigration judges, local governments, and private-sector practitioners, as well as publicly available data, litigation developments, and policy analysis. The Committee finds that the current enforcement environment has intensified a longstanding access-to-justice deficit in immigration proceedings—most acutely for detained individuals and those subject to fast-moving removal processes—while increasing the risk of family separation, wrongful deportation,

2 NYSBA Committee on Immigration Representation, <https://nysba.org/committees/committee-on-immigration-representation/>.

3 White House Presidential Actions, *Memorandum on Preventing Abuses of the Legal System and the Federal Court*, Mar. 22, 2025, <https://www.whitehouse.gov/presidential-actions/2025/03/preventing-abuses-of-the-legal-system-and-the-federal-court/>.

4 Oral testimony of Christine M. Fecko, Executive Director, Interest on Lawyer Account (IOLA) Fund of the State of New York, to the NYSBA Comm. on Immigration Rep. at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement, Nov. 13, 2025.

economic disruption, and deterrence from schools, hospitals, courts, and other core institutions of public life.

The Scale of Need in New York State

New York remains among the most significant jurisdictions in the nation for immigration court activity and enforcement impact. As of August 2025, nearly 340,000 cases were pending before New York State immigration courts, a figure that does not fully capture the scope of enforcement because it excludes individuals routed into expedited removal or otherwise diverted from standard court processes. Testimony further described a sharp rise in detention, with detained dockets in New York immigration courts nearly doubling over the prior year.

Against this backdrop, the representation gap remains severe. Public statements from the Vera Institute of Justice and partners reported that nearly 30% of people facing deportation in New York lack counsel, with the gap rising to roughly 40% among detained individuals. Witnesses from statewide legal providers confirmed that detention, rapid timelines, remote hearings, geographic transfers, and bond denials are driving increasing numbers of New Yorkers through life-altering proceedings without meaningful access to legal process.

Why Immigration Legal Services Are the Pressure Point

Across testimony, the Committee heard a consistent message: immigration legal services are the most immediate and effective point of intervention to preserve due process in the current enforcement environment. Immigration proceedings carry profound consequences, yet there is no right to appointed counsel at public expense for indigent individuals. Legal service providers emphasized that representation frequently determines whether an individual can understand proceedings, present evidence, pursue relief, or preserve the right to appeal.

Empirical research cited in the record shows that detained immigrants are more than 10 times as likely to prevail in their cases when represented. In the present environment—marked by expanded detention, accelerated adjudications, courthouse arrests, and heightened enforcement near sensitive locations—the protective value of counsel has increased while nonprofit capacity has been stretched to the breaking point.

New York State’s Legal Services Infrastructure — Strengths and Limits

New York State has long been a national leader in supporting civil legal aid and immigrant access to counsel through statewide and local initiatives. Testimony detailed the reach of nonprofit providers across removal defense, affirmative relief, humanitarian visas, detention response, impact litigation, pro bono partnerships, and community legal education.

At the same time, the record underscores mounting structural strain. An IOLA representative testified that the organization has distributed tens of millions of dollars annually to legal aid organizations serving more than a million New Yorkers, while simultaneously confronting major federal funding cuts. Providers described staffing shortages, rising secondary trauma, increased federal litigation demands, rapid client transfers between detention facilities, and expanding need.

The Committee finds that while New York has invested substantially in immigration representation—including the New York Immigrant Family Unity Project, Regional Immigration Assistance Centers, and local government initiatives—demand for sustained, full-scope representation is now outpacing capacity statewide, particularly for detained individuals and those facing expedited removal.

Key Findings

Based on the record, the Committee makes the following findings:

1. Federal enforcement practices are eroding practical access to due process through expanded detention, accelerated adjudication, courthouse arrests, and widespread fear that discourages engagement with courts and public institutions.
2. New York State’s immigration courts face extraordinary volume, with hundreds of thousands of pending cases and a substantial share of respondents unrepresented, especially among detained populations.
3. Representation is a primary determinant of legal outcomes, particularly in detention contexts, where empirical research demonstrates stark disparities between represented and unrepresented individuals.
4. New York’s nonprofit immigration legal services ecosystem is a critical bulwark for due process but is under acute strain from rising demand, workforce attrition, funding uncertainty, and increasing litigation complexity.
5. State and local policy materially shapes access to justice, including courthouse-protection laws, public-benefit programs, detention-contract restrictions, and limits on local cooperation with federal civil-immigration enforcement.

Summary of Recommendations

The Committee recommends a coordinated response across state, local, and federal levels.

Recommendations for New York State Law and Policy

- **Statewide access to counsel: Adopt the Access to Representation Act (S.141/A.270).** Access to representation is critical to protect the rights of immigrants and safeguard the rule of law. The integrity of the judicial process and system is undermined when immigrants can be detained and deported without counsel. In 2019, the New York State Bar Association formally adopted policy calling on the Governor and the New York State Legislature to enact a right to counsel in immigration proceedings as a statutory requirement under New York State law. We affirm that policy today.⁵ The Access to

⁵ NYSBA Comm. on Immigration Rep., *The Need for Access to Counsel in Immigration Proceedings in New York* (resolution approved by the NYSBA House of Delegates, June 15, 2019), <https://nysba.org/wp-content/uploads/2020/02/Agenda-Item-8-Immigration-Representation.pdf>.

Representation Act would create a right to counsel at government expense for the poor and indigent in federal immigration courts located in New York State and place the state at the forefront of public policy to protect its immigrant communities.

- **Increase the current level of funding provided through the Office of New Americans (ONA) of the NYS Department of State.** The current level of funding is \$64.2 million and will fall short in the face of the ongoing crisis, federal cutbacks in funding and the mounting need.
- **Pass the BUILD Act. (S.4538/A.2689).** New, aggressive federal enforcement tactics, an exponential increase in detentions without bond, expedited removals and deportations, and the rapid surge in federal resources devoted to immigration enforcement have overwhelmed existing legal services. The need for additional funding for legal representation is urgent. In addition, cutbacks in federal funding have already occurred and those slated for 2026 will further reduce the funding previously available for immigration legal counsel. In 2019, the New York State Bar Association had the foresight to call on the Congress and the New York State Legislature to establish a funded system of appointed counsel for indigent respondents in removal proceedings.⁶ That policy is accomplished by passing the BUILD Act. The BUILD Act would provide dedicated funds to expand capacity for immigration legal services across the state. The funds could be used to hire experienced counsel, add social workers to support attorneys' work, and recruit and train expert staff.
- **Adopt the New York for All Act. (S.2235/A.3506)** In New York State, some localities have stepped forward as models of local policy by adopting county or city laws that bar cooperation with federal immigration enforcement, unless a crime has been committed. Westchester County, for example, adopted the Immigrant Protection Act in 2018, which, among other provisions, guarantees undocumented persons equal treatment under the law and bars local enforcement agencies from using local resources to assist ICE or other immigration authorities. Unfortunately, other counties including Broome, Nassau and Rensselaer have entered into 287(g) agreements with immigration authorities, deputizing local law enforcement to act as federal immigration agents and thereby dramatically increasing the reach of federal enforcement. In 2021, a joint Report by the New York State Bar Association Committees on Immigration Representation, Legal Aid, and Mandated Representation stated that "Immigration detention and enforcement pose grave risks to immigrant New Yorkers."⁷ The framing of detention as inherently harmful supports the

⁶ *Id.*

⁷ NYSBA Comms. on Immigration Rep., Legal Aid, and Mandated Rep., *A Report from the Committee on Immigration Representation, Committee on Legal Aid, and Committee on Mandated Representation* (approved by the NYSBA House of Delegates, Oct. 30, 2021), <https://nysba.org/wp-content/uploads/2021/10/Committee-on-Immigration-Rep-COLA-Mandated-Rep-and-Criminal-Justice-Section-ABA-103B-web-APPROVED.pdf>.

policy logic behind S.316, though no explicit endorsement of banning detention facilities is mentioned in the report. The New York for All Act would prohibit State and local enforcement agencies from using resources to aid ICE enforcement.

- **Adopt the Dignity Not Detention Act. (S.316/A.4181)** The Act would prohibit detention contracts between New York State and ICE, further disentangling New York State resources from federal immigration enforcement.
- **Adopt the SNAP for All Act (A.6636/Gonzales-Rojas).** The Act would create a State-funded program to restore SNAP benefits with state dollars for families who lost SNAP under immigration restrictions, such as limits on work visas, Temporary Protected Status, asylum, U visas and Deferred Action for Childhood Arrivals status. It would also provide SNAP benefits to those losing federal benefits. In 2022, the NYSBA Report on Racial Justice and Child Welfare supported economic interventions that reduce poverty-driven family destabilization.⁸ And in 2023, the NYSBA Task Force on Racism, Social Equity, and the Law recommended dismantling structural economic exclusion rooted in race and immigration status.⁹ This legislation would accomplish these goals,
- **Protect Sensitive Locations:** Expand and enact the Sanctuary Hospitals Act (A.9589). The Administration has withdrawn the immigration enforcement protection previously afforded to sensitive locations, including healthcare facilities, educational institutions, and places of worship. In 2018, NYSBA examined ICE arrests at courthouses and recommended that the court system take all steps available to remove ICE agents from the courts.¹⁰ This Report recognized that enforcement actions in certain civic spaces undermine fundamental rights and institutional integrity. Hospitals are explicitly listed in the federal Sensitive Locations Policy. The Sanctuary Hospitals Act essentially codifies that logic into state law. The Committee recommends that the bill be revised and expanded to cover other healthcare facilities in addition to hospitals, educational institutions, and places of worship.
- **Pro Bono Assistance by Law Firms:** In addition to proposing increased funding for representation, the Committee commends the invaluable role law firms have played in pro bono representation of noncitizens in asylum cases and other challenges to their removal. In order to meet the current, rising need for immigration legal services, it urges law firms

8 NYSBA Comm. on Families and the Law, *Report and recommendations of the Committee on Families and the Law: Racial Justice and Child Welfare* (approved by the NYSBA House of Delegates, April 2, 2022),

<https://nysba.org/wp-content/uploads/2022/03/Committee-on-Families-and-the-Law-April-2022-approved.pdf>.

9 NYSBA Task Force on Racism, Social Equity, and the Law, *Report and Recommendations of the New York State Bar Association Task Force on Racism, Social Equity, and the Law* (approved by the NYSBA House of Delegates, Jan. 20, 2023, <https://nysba.org/wp-content/uploads/2022/06/NYSBA-Taskforce-on-Racism-Social-Equity-and-the-Law-11.11.22-FINAL-with-changes-accepted.pdf>).

10 NYSBA Comm. on Immigration Rep., *Report: Immigration and Customs Enforcement Arrests in Courthouses* (adopted by NYSBA House of Delegates, Jan. 28, 2018), <https://nysba.org/wp-content/uploads/2020/02/Immigration-Report-and-Resolution.pdf>.

to expand their efforts to represent individuals and families in removal proceedings or volunteer their services to assist in federal litigation challenging detention and other violations of due process in immigration enforcement.

Recommendations for Federal Law and Policy

Adopt the Fairness to Freedom Act of 2025 (H.R. 3127): The Fairness to Freedom Act (FTF) would make the Sixth Amendment right to counsel a reality for immigrants facing deportation nationwide by requiring that the federal government fund legal representation for immigrants who cannot afford to pay for an attorney.¹¹ NYSBA advocates for this bill as part of our federal priorities as access to justice.

Adopt the SHIELD Act of 2025 (H.R. 8980): Between January and July 2025, ICE arrested nearly 5,000 New Yorkers, more than in all of 2024. The SHIELD Act would provide support to existing state and local programs providing immigration legal services by establishing a four-year renewable competitive federal grant program to state and local governments, not-for-profit organizations and educational institutions. This funding would prioritize program sustainability and focus on underserved areas. It would help ensure that immigrants facing deportation receive holistic and linguistically appropriate immigration legal services and retain a legal services workforce to meet the needs of individuals facing deportation.¹²

Adopt the Real Courts Rule of Law Act: The Real Courts, Rule of Law Act (Real Courts bill) originally introduced in 2022 by Representatives Zoe Lofgren (D-CA), Jerrold Nadler (D-NY), and Hank Johnson (D-GA) as H.R. 6577 and reintroduced in 2024 by Representative Lofgren as H.R. 7724.¹³ Currently, federal immigration courts are under the purview of the Executive Office of Immigration Review of the U.S. Department of Justice. The Real Courts bill would create an independent immigration court system under Article I of the Constitution, similar to the U.S. Tax Court and the U.S. Court of Appeals for Veterans Claims, and would separate the operation of immigration courts from political influence. The Real Courts would contain three divisions: trial, appellate and administrative, and appellate judges would be subject to Senate confirmation. Immigration judges would have the legal authority to impose civil monetary penalties for contempt and resources to protect due process via access to counsel, legal interpretation in proceedings and legal orientation programs.¹⁴ This

11 H.R. 8980, 118th Cong. (2024), Text (as introduced July 10, 2024), <https://www.congress.gov/bill/118th-congress/house-bill/8980/text> (last accessed Feb. 2026).

12 *Id.*; see also Vera Inst. of Justice, *Fairness to Freedom*, <https://www.vera.org/fairness-to-freedom>.

13 H.R. 7724, 118th Cong. (2024), Titles, <https://www.congress.gov/bill/118th-congress/house-bill/7724/titles>.

14 H.R. 6577, 117th Cong. (2021), Text, <https://www.congress.gov/bill/117th-congress/house-bill/6577/text>; see also Am. Immigration Lawyers Ass'n, *Immigration Courts*, <https://www.aila.org/featured-issues/immigration-courts>.

recommendation aligns with NYSBA’s call in 2021 for an independent immigration judiciary.¹⁵

III. Federal Immigration Enforcement and the Rising Need for Immigration Legal Services

A. The Impact of Administration Immigration Policies and Enforcement

Since January 2025, the Administration has issued 525 Executive Orders related to immigration that have disrupted long-standing immigration policies and practices, creating an arena for chaotic immigration enforcement and undermining the rule of law. Among the most far-reaching changes, Executive Orders and immigration enforcement practices have:

- Increased detention of noncitizens with no opportunity to obtain release on bond while applications for relief are pretermitted and people are quickly deported, even to third countries;
- Made unprecedented use of expedited removal and other statutory provisions former administration’s chose not to implement;
- Undermined legal remedies extended to immigrants, such as asylum, special status for unaccompanied minors, and visas for survivors of domestic violence and trafficking;
- Fired immigration judges who grant more relief from removal than deemed appropriate;
- Permitted immigration enforcement action in locations once deemed “sensitive” and off-limits, such as schools, churches and hospitals; and
- Imposed selective limits to the admission to the United States by foreign nationals, including visa denials and extreme vetting at the border.

One of the most immediate and significant threats facing non-citizen New Yorkers is detention by federal immigration authorities, with little, if any, opportunity for release on bond, even when they pose no danger to the community or flight risk. The result is detention for months or potentially years.¹⁶ The Immigrant Justice Corps, a New York City-based fellowship program, reported that

in New York we are seeing more clients detained without access to counsel, an alarming increase in family separation impacting U.S. citizen spouses and their children, and greater

15 NYSBA Comm. on Immigration Rep. and N.Y. City Bar Ass’n, *Report on the Independence of the Immigration Courts*, (approved by the NYSBA House of Delegates, Jan. 30, 2021), <https://nysba.org/wp-content/uploads/2020/02/Immigration-Rep-report-with-cover.pdf>.

16 Oral testimony of Deborah Lee, Attorney-in-Charge of the Immigration Law Unit at The Legal Aid Society, to the NYSBA Comm. on Immigration Rep. at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement (Nov. 13, 2025).

fear in immigrant communities, discouraging people from attending court hearings, reporting crimes, or seeking necessary medical care.¹⁷

Many of those who testified echoed these concerns and the impact of fear on the participation of immigrants in our educational and health care systems and civic life more broadly.

Also of serious concern is the impact of ICE enforcement in New York City immigration courts and ICE offices as a result of a January 28, 2025 Policy Memorandum by the United States Department of Justice (DOJ) Executive Office of Immigration Review, which operates immigration courts. The Memorandum allowed immediate enforcement against immigrants who seek to participate in the legal system by appearing for their removal hearings. Through the end of July 2025, the Legal Aid Society reports that ICE made 460 arrests in the immigration courts in New York City, more than any other city in the U.S.¹⁸

As several organizations testified, immigrants are now afraid to appear in public spaces, including schools, workplaces, courthouses, and public transportation.¹⁹ Some have restricted their movement to essential errands; others have canceled appointments or withdrawn from community activities. This includes individuals who have already been screened by federal authorities, granted benefits, and in many cases had their immigration court cases closed. Their heightened fear reflects the far-reaching community-wide consequences of enforcement actions, even when such actions are not directed at the individuals affected. The result is reduced participation in education, employment, and civic life—outcomes that are contrary to the goals of humanitarian benefit programs and detrimental to the communities of this state.

Among the policy changes expanding immigration enforcement, the Department of Homeland Security (DHS) rescinded prior guidance that treated schools, hospitals and places of worship as protected locations where enforcement actions were to be avoided if at all possible. In a Policy Memorandum issued on January 20, 2025, DHS reversed this protected status. The new Memorandum allows enforcement at these critical venues of public life at the discretion of ICE agents, leaving immigrants vulnerable as they seek healthcare, education and religious worship.²⁰

In addition, enforcement activity at workplaces has also left immigrants reluctant to work, further undermining their economic security and the economic benefit their participation brings to the workforce and their communities. A recently proposed federal rule would eliminate automatic extensions of employment authorization documents, placing immigrants' jobs at further risk since

17 Oral testimony of Maryann Tharappel, Chief Program Officer, IOLA Fund, Immigrant Justice Corps. (IJC), to the NYSBA Comm. on Immigration Rep. at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement, (Nov. 13, 2025).

18 *Id.*

19 Written testimony of Andrew Walsh, Acting Managing Attorney for the Detained Program at KIND, to the NYSBA Comm. on Immigration Rep. at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement, Nov. 20, 2025.

20 Dep't of Homeland Security, Policy Memorandum: Enforcement Actions in or Near Protected Areas,, Jan. 20, 2025, <https://www.dhs.gov/publication/enforcement-actions-or-near-protected-areas>.

employers are legally required to see evidence of active work permits to work in the U.S. before hiring someone. These changes in workplace enforcement and policy diminish the economic stability and vitality of communities across New York State. As recognized by Attorney General Letitia James, cities like Utica, Syracuse and Rochester have seen direct benefits from refugee resettlement, reversing population decline and driving local economic growth.²¹

Federal immigration enforcement has taken a particularly harsh toll on women and children. As reported by the Immigration Practice at Her Justice, which serves victims of domestic violence and human trafficking, the demand for legal services has climbed.²² Prior administrations issued directives that supported identifying and stabilizing victims of crime, domestic violence and human trafficking by, for example, creating task forces consisting of law enforcement entities and service providers. Now, immigrant victims of crime are fearful of seeking help from police or the courts.²³

Following years of focused litigation, precedents in immigration law had established domestic violence as a plausible basis for an asylum claim in specific situations. A decision by the Board of Immigration Appeals on July 18, 2025 overturned the previous rulings, undermining the ability of victims of domestic violence to seek asylum.

In an ICE raid in Cato, New York, in 2025, mostly female factory workers were rounded up and arrested. Many were mothers of young children who came home from school to find that their mothers had not returned home from work. The women were detained in Texas and Louisiana, where their children could not visit them and they could not reach their lawyers or provide evidence of lawful status.²⁴

Some unaccompanied children have had immigration cases reopened that had been administratively closed and now face the threat of being sent to their home countries where they may have been abandoned, neglected, or abused. Typically, no parents are involved in these cases, heightening the critical role of legal representation. In other cases, parents are deported and must

21 Office of the N.Y. State Attorney General, *Attorney General James Defends Life-Saving Refugee Program Against Unlawful Ban*, Mar. 14, 2025, <https://ag.ny.gov/press-release/2025/attorney-general-james-defends-life-saving-refugee-program-unlawful-ban>. See also Office of the N.Y. City Comptroller, *Facts, Not Fear: How Welcoming Immigrants Benefits New York City*, Feb. 2025, <https://comptroller.nyc.gov/reports/facts-not-fear-how-welcoming-immigrants-benefits-new-york-city/>.

22 Oral testimony of Esther Limb, Director of Immigration Practice at Her Justice, to the NYSBA Comm. on Immigration Rep. at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement, Nov. 13, 2025.

23 In 2023, Her Justice published a policy paper, “Stories from Immigrant Survivors of Gender-Based Violence: The Impact of Work Authorization,” which highlighted the remarkable contributions of immigrant women and the severe consequences of not having the ability to work legally. See <https://herjustice.org/wp-content/uploads/2023/11/Her-Justice-Policy-Report-Impact-of-Work-Authorization.pdf>.

24 Written testimony of ECBA Volunteers Lawyers Project, to the NYSBA Comm. on Immigration Rep. at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement, Dec. 1, 2025.

leave their children with United States citizenship behind.²⁵ While not required as a matter of law, as a practical matter parents often may have little choice but to leave their children behind when they are deported. Some parents may not have the time to obtain legal services and complete the forms needed to protect their children in the event they are detained or to facilitate reunion with their children outside the country, if necessary. Once detained, it is virtually impossible for them to communicate with or make legal arrangements for their children.²⁶

Kids in Need of Defense (KIND), dedicated to legal services for children, has seen a substantial increase in caregivers who refuse—or are extremely hesitant—to participate in family court proceedings with the unaccompanied minors in their charge due to fear of immigration enforcement. Caregivers have reported that they fear being detained or targeted by appearing in or near a courthouse. This fear impedes children’s access to essential legal protections, including custody determinations, guardianship orders, and findings necessary for special immigrant juvenile status immigration relief. The effect is to undermine the core functions of New York’s family court system and place vulnerable youth at heightened risk. Enforcement-driven fear has also impaired the administration of asylum cases, where witness testimony is often essential to corroborate past persecution or factual elements of a claim.²⁷

Of the roughly 250 Venezuelan men deported in defiance of a federal court order to the notorious Center for Terrorism Confinement (CECOT) in El Salvador without due process, two were clients of the Bronx Defenders. Ultimately, Bronx Defenders succeeded in securing their release in an emergency decision issued by the United States Supreme Court.²⁸ Notably, in its testimony, Bronx Defenders described the removal of its Venezuelan clients as a “preview of what was to come,” including incommunicado detention, unpredictable transfers of detained but represented clients to faraway locations, the immigration courts abandoning any semblance of neutrality, and third-country removals. The impact has been destabilizing for the immigrant community. Like other organizations that testified, Bronx Defenders has witnessed clients attempting to comply with the law get arrested when they present themselves at ICE offices, being detained with no chance of release even if they have no criminal records.²⁹

25 Oral testimony of Sarah McDowell, Deputy Executive Director for Immigration Programs for the Volunteer Lawyers Project for Central New York, to the NYSBA Comm. on Immigration Rep. at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement, Nov. 13, 2025.

26 Rebecca Greenberg, *Father and 6-Year-Old Son Allegedly Detained and Separated by ICE*, NY1, Dec. 3, 2025, <https://ny1.com/nyc/all-boroughs/news/2025/12/03/father-and-6-year-old-son-allegedly-detained-and-separated-by-ice/>; see also Ubah Ali, *A Safeguard Document Is Helping Parents Prepare in Case of ICE Arrest and Family Separation. Here’s How*, CBS News Minnesota, Jan. 16, 2026, <https://www.cbsnews.com/minnesota/news/dopa-form-family-separation-ice-arrests-children/>.

27 Written testimony of Andrew Walsh, Acting Managing Attorney for the Detained Program at KIND, to the NYSBA Comm. on Immigration Rep. at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement, Nov. 20, 2025.

28 The issue will again be heard by the Supreme Court. *W.M.M. v. Trump*, 154 F.4th 207 (5th Cir. Tex., Sept. 2, 2025).

29 Oral testimony of Karla Ostolaza, Managing Director of the Immigration Practice at Bronx Defenders, to the NYSBA Comm. on Immigration Rep. at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement, Nov. 13, 2025.

The economic and social harm affecting the workforce extends to professionals, entrepreneurs and university faculty who have contributed their talent to the education, research, health care and business sectors. The policies of the Administration have hampered these individuals' ability to travel and live in the United States, diminishing the pool of potential employees available to teach, carry out research in academia and the pharmaceutical sector, and provide medical treatment.³⁰ In recent months, visas have been suspended for foreign employees, with nationals of certain countries being completely banned from admission to the U.S. Screening of foreign nationals at ports of entry has also been more assertive, including inspections of social media. Individuals seeking to enter the United States fear confiscation by CBP of their cell phones or laptops and the sensitive business information those devices may contain.³¹

United States Citizenship and Immigration Services (USCIS) has placed a hold on the review of all pending applications for visas, green cards, citizenship or asylum from immigrants from an ever-increasing number of countries. Attorneys for professional foreign nationals are concerned about the legal and economic environment of the United States, with some of those nationals pursuing alternatives for investment and residence elsewhere.³² American-born individuals are seeking second passports and expatriating in growing numbers. Taken together, these policies undermine the United States as a magnet for talent, innovation, and investment and its leadership in medical and scientific research and economic growth.

As reported in *The New York Times*, the federal government seeks to “ramp up” denaturalization (e.g., revoking a previous grant of U.S. citizenship) when fraud was allegedly perpetrated by the applicant, as set forth in an internal guidance issued by USCIS. The reported goal is to litigate 100–200 cases of alleged improper grants of U.S. citizenship per month in the 2026 fiscal year. By comparison, between 2017 and this year to date, just over 120 cases have been filed.³³ As reported, this change would represent a dramatic escalation of denaturalization cases. The impact of this initiative will only further burden legal services providers in the field who have rarely had to address such matters in the past.

Federal enforcement has rapidly increased the number of individuals who need legal assistance on an expedited basis. The change in enforcement practice has also required immigration attorneys to shift their representation to provide a greater depth of services and expand their reach as they

30 Oral testimony of Cianna A. Freeman-Tolbert, Partner at Whiteman Osterman & Hanna LLP, to the NYSBA Comm. on Immigration Rep. at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement, Nov. 13, 2025.

31 *Id.*

32 Oral testimony of Shannon McNulty, Attorney with the Village Law Firm (NYC), to the NYSBA Committee on Immigration Rep. at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement, Nov. 13, 2025.

33 Adam Liptak, *Trump Administration Expands Efforts to Denaturalize U.S. Citizens*, N.Y. Times, Dec. 17, 2025, <https://www.nytimes.com/2025/12/17/us/politics/trump-immigration-citizenship-denaturalization.html>.

navigate strict new statutory interpretations, a new body of regulation, and harsher adjudications.³⁴ They also accompany their clients through the trauma that federal enforcement has imposed on individuals, families and communities.

Federal policy changes are eroding the independence of the adjudicatory system for immigrants. Changes include dismissal of applications for relief without a hearing, overriding precedential decisions that protect asylum status, and denying applications for bond.

B. The Reach of Existing Immigration Legal Services

Currently in New York State, an array of not-for profit organizations delivers critical legal services to immigrants, including representation in removal proceedings to prevent deportation, detention, family separation, and representation to seek asylum, citizenship, “green cards,” and special visas for victims of human trafficking and other crimes. Some organizations, such as the Volunteer Lawyers Program of Central New York and the Erie County Bar Association Volunteer Lawyers Project in Buffalo, also recruit, train, and mentor immigration counsel, including pro bono attorneys, to handle immigration law matters.

A critical source of revenue for immigration legal services, the Interest on Lawyer Accounts (IOLA) Fund, is a fiduciary fund dedicated to supporting civil legal aid organizations across New York State by providing general operating grants. In 2025, IOLA distributed \$60 million dollars to 87 nonprofit agencies that served over 1.1 million New Yorkers in a variety of civil legal services, including immigration matters.

Nine thousand cases funded by IOLA in the 2025 fiscal year involved obtaining asylum, permanent residence, or some other affirmative immigration benefit, including special visas for victims of human trafficking and serious crimes. Seven thousand cases resulted in noncitizens obtaining employment authorization, allowing them to work lawfully in the United States and contribute to the economies of their local communities and the State. IOLA’s own studies indicate that immigration legal services resulted in over \$900 million in financial benefits by increasing immigrants’ wages and generating more tax revenue.

Fifty-four of the 87 IOLA grantees in New York State are frontline immigration service providers. Their advocacy provided legal services to nearly 140,000 people in 2025. Among those served, 2,500 were awarded United States citizenship, a benefit that is now being denied to many by the Administration, which has cancelled some naturalization ceremonies across the state, and threatened to denaturalize others who were granted this status.

Importantly, revenue from attorney trust accounts through IOLA also funds lawyers who represent indigent noncitizens in removal proceedings, resulting in almost 1300 individuals in New York State in 2025 obtaining relief from deportation, thereby limiting the separation of families and

³⁴ Written testimony from the New York Legal Assistance Group (NYLAG), to the NYSBA Comm. on Immigration Rep. at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement, Nov. 26, 2025.

allowing those who have called the United States home for years to remain. Advocates also worked to secure their clients' release from immigration detention, which has become increasingly difficult for the reasons set forth below.

Public funding for immigration legal services in New York State also comes from the Office of New Americans of the New York State Department of State (ONA), created in 2012 to welcome immigrants and provide essential services to facilitate their transition to life in New York State. According to the ONA 2024 Annual Report, ONA-funded organizations served over 26,000 individuals, including 6,089 who received direct representation in immigration legal matters,³⁵ 271 of whom were placed with pro bono lawyers.³⁶

In addition to funding from New York State, IOLA and private foundations, immigration legal service providers have historically been supported by federal funding. The current Administration has eliminated various sources of federal funds. Other cuts are projected. The federal funding freeze established by Office of Management and Budget Memorandum M-25-13 paused funding for programs that were not Administration priorities. Following the initiation of litigation, the Administration rescinded the Memorandum but confirmed it would continue to review and seek to pause or terminate awards inconsistent with its priorities.³⁷ On March 21, 2025, the federal government eliminated funding for immigration legal services to assist unaccompanied minors, leaving 26,000 immigrant children across the United States without counsel.³⁸ In April 2025, the Administration sought to end funding for the National Qualified Representative Program, which provides legal services to detained immigrants with serious mental health disorders. Most recently a court has enjoined these cuts, but litigation continues.³⁹ The Administration also eliminated federal funding for programs providing legal information and orientation to detained immigrants in removal proceedings, denying those without attorneys the ability to get basic information to address their questions about the legal process.⁴⁰

In 2026, the federal government also sought to cut its support for legal services for the poor with an estimated cut that will entail a loss of \$137 million. Twenty legal aid organizations in New York

35 N.Y. Dep't of State Office for New Americans, *2024 Annual Report Pursuant to Section 94-b(5)(n) of the Executive Law*, July 29, 2025.

36 *Id.*

37 Catholic Legal Immigration Network, Inc., *Immigration Program Management in Uncertain Times: Considerations Before Deciding to Downsize or Close an Immigration Legal Services Program*, <https://www.cliniclegal.org/resources/ethics/immigration-program-management-uncertain-times-considerations-deciding-downsize-or>.

38 Amica Ctr. for Immigrant Rights, *Shutdown of Legal Services for Unaccompanied Immigrant Children*, <https://amicacenter.org/uncategorized/shutdown-of-legal-services-for-unaccompanied-immigrant-children/>; see also Acacia Justice, *Coalition of Legal Organizations Denounce Government's Termination of Unaccompanied Kids Program*, Mar. 24, 2025, <https://acaciajustice.org/coalition-of-legal-organizations-denounce-governments-termination-of-unaccompanied-kids-program/>.

39 Molly Smith, *Lawyers Say Immigration Detention Is Harming Mental Health of Clients*, The Marshall Project, May 19, 2025, <https://www.themarshallproject.org/2025/05/19/lawyers-immigrants-mental-health-detention>.

40 Liam Dillon, *Cuts to Legal Aid Threaten Services for Low-Income Californians*, Los Angeles Times, July 23, 2025, <https://www.latimes.com/california/story/2025-07-23/legal-aid-cut>.

State rely on federal funding, which can comprise up to 27% of their budgets. Some cuts have already occurred, and others are the subject of ongoing litigation. While IOLA has committed over \$560 million in general operating support over the next five years in an attempt to compensate for this loss of federal monies, more funding will be needed to bridge the justice gap faced by low-income noncitizens in need of legal counsel.⁴¹ The Vera Institute has proposed a \$175 million investment in immigration representation through ONA for fiscal year 2027.⁴²

Several organizations testified that multi-year, flexible programming and funding would enable legal service organizations to expand their capacity and expertise to best support immigrant communities.⁴³ These groups reported that in prior years many contracts—including, in particular, funding for legal and case management—had been extended on a yearly basis, through contracts that are often negotiated with the state after the start of the fiscal year. The short-term nature of these contracts limits the capacity of legal service organizations to hire and train permanent staff, strengthen their infrastructure, and adapt their services to meet the current need.⁴⁴

C. New York State’s Leadership on Immigrant Rights and Representation

New York holds a special place in the nation’s history of immigration, stretching back to the earliest settlers as the gateway for generations of immigrants. The waves of immigrants that have disembarked at Ellis Island have fueled the economic growth, diversity, and cultural richness of New York City, the state, and the nation.

It is therefore fitting that the state has embraced this history and has been a national leader in securing and defending the rights of immigrants through funding for legal aid services, innovative programs, and the commitment of elected leaders and religious, civic and health care organizations.

One important program in New York State is the New York Family Unity Immigration Representation Project (NYIFUP), which allows several agencies in New York City and two in Upstate New York to operate a public defender style program for immigrants detained by ICE. With New York’s investment, NYIFUP became the country’s first and only statewide universal representation system for detained immigrants facing deportation.⁴⁵ Launched in 2013, the NYIFUP New York City pilot program, administered by the Vera Institute and funded by the New York City Council, pioneered representation for detained indigent immigrants who were unrepresented at their initial deportation hearings. Based on the initial success of the project and increased need, NYIFUP expanded across New York State in 2017 through a public-private

41 Oral testimony of Christine M. Fecko, Executive Director, IOLA Fund of the State of N.Y., to the NYSBA Comm. on Immigration Rep. at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement, Nov. 13, 2025.

42 Oral testimony of Rosie Wang, Program Manager at the Vera Institute of Justice, to the NYSB) Committee on Immigration Rep. at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement, Nov. 13, 2025.

43 Written testimony from NYLAG, *supra* note 34.

44 *Id.*

45 Oral testimony of Rosie Wang, *supra* note 42..

partnership between the New York State Department of State, foundations, and a statewide coalition of 182 advocacy organizations, law firms, university law clinics, bar associations and advocacy organizations.⁴⁶ The New York Immigrant Family Unity Project and the Liberty Defense Project made New York State a national model, with 55 jurisdictions—states, counties, and cities—following New York’s lead by investing in deportation defense programs.⁴⁷

New York State has also led the way with Regional Immigration Assistance Centers (RIACs) funded by the NYS Office of Indigent Legal Services (ILS), the agency that ensures that people in our criminal legal and family court systems receive quality legal representation, even if they cannot afford to retain their own lawyer. The RIACs were created in response to the United States Supreme Court’s landmark decision in *Padilla v. Kentucky*.⁴⁸ That case held that, given the dramatic stakes of a criminal conviction for a non-citizen, providing accurate legal advice about the implications of a guilty plea on immigration status is critical, and the failure to do so may constitute ineffective assistance of counsel in violation of the Sixth Amendment to the U.S. Constitution. Given the complexity of what has been referred to as “crimmigration”⁴⁹ law (a term signifying the intersection of criminal and immigration law), and the regular changes in case law and policy in this practice, RIACs were created so that mandated representatives, such as public defenders and assigned counsel, would have a reliable resource available to obtain legally sound advice. Six RIACs cover the state and provide this essential service. According to ILS, in 2023 the network of RIACs responded to more than 4,224 requests for assistance.

New York State has also led in public education about the rights and responsibilities of individuals when interacting with federal officials engaged in civil immigration enforcement. The New York State Attorney General’s Office provides important guidance about laws governing state and local official interaction with federal civil immigration officials,⁵⁰ as well as a portal on the Attorney General’s website to report photos and videos of civil immigration enforcement.⁵¹ NYSBA maintains a compendium of information resources on immigration legal developments and enforcement on its website.⁵² The Committee has provided two public programs, “ICE

46 Testimony of the Vera Institute of Justice in Support of the New York Immigrant Family Unity Project (NYIFUP), Submitted to the Joint Legislative Budget Hearings on Public Protection, Human Services, and Local Government (Feb. 7, 2021).

47 Vera Inst. of Justice, *New York Immigrant Family Unity Project*, <https://www.vera.org/ending-mass-incarceration/reducing-incarceration/detention-of-immigrants/new-york-immigrant-family-unity-project>.

48 *Padilla v. Kentucky*, 559 U.S. 356 (2010).

49 Juliet Stumpf, *The Crimmigration Crisis: Immigrants, Crime, and Sovereign Power*, 56 Am. U. L. Rev. 367 (2006), <https://digitalcommons.wcl.american.edu/aclr/vol56/iss2/3/>.

50 Office of the N.Y. State Attorney General, *Immigration Enforcement and Law Enforcement Cooperation*, Jan. 2017, updated Jan. 2025, <https://ag.ny.gov/police-departments-law-enforcement/immigration-enforcement>.

51 Office of the N.Y. State Attorney General, *Attorney General James Launches Portal to Collect Photos and Videos of ICE Activity in New York*, Oct. 22, 2025, <https://ag.ny.gov/press-release/2025/attorney-general-james-launches-portal-collect-photos-and-videos-ice-activity-in-new-york>.

52 NYSBA, *Immigration Programs and Resources from NYSBA*, <https://nysba.org/immigration-programs-and-resources-from-nysba/>.

Immigration Enforcement for Non-Immigration Lawyers: What to Expect”⁵³, which offers non-immigration practitioners an overview of current immigration enforcement practices, key legal concepts, and the rights of noncitizens during ICE encounters, and “Mission, Fiduciary Duty and Immigration Law: New Challenges for Nonprofits”⁵⁴, which examines how evolving immigration enforcement policies affect nonprofit organizations’ missions, governance obligations, and fiduciary duties.

D. Federal Litigation and Orders Targeting New York State Immigration Law and Policy

In addition to enacting rapid change in enforcement policy and practice across the nation, the Administration has adopted specific orders and an intensive litigation strategy aimed at invalidating New York State and local measures designed to safeguard due process and access to justice. In 2020, New York State passed the Protect our Courts Act (POCA) that bars ICE officers from making civil arrests in and around New York State Courts, including city and other municipal courts, unless they have a judicial warrant.⁵⁵ On January 22, 2025, ICE issued Policy Memorandum 11072.3, “Interim Guidance: Civil Immigration Enforcement Actions in or Near Courthouses,” asserting its ability to engage in enforcement in or near courthouses. The focus was primarily on enforcement in or near criminal courts but also encompassed civil courts such as Family Court and Small Claims Court with supervisor approval. Notably, the Interim Guidance stated that any enforcement in or near state courts should be consistent with local laws. But on May 27, 2025, ICE issued a superseding Policy Memorandum 11072.4, “Civil Immigration Enforcement Actions in or Near Courthouses,”⁵⁶ removing the language about respecting local laws.

On February 6, 2025, the New York State Office of Court Administration issued a memorandum reaffirming the validity of POCA in New York State. The memorandum affirmed that ICE enforcement is prohibited in or around court houses in New York State unless law enforcement has a warrant signed by a judge. Immigration detainers are not warrants based on probable cause and do not qualify as an arrest warrant. In response, the Department of Justice filed a lawsuit, *U.S.A. v. New York* (N.D.N.Y.) and sought to invalidate POCA, based on the Supremacy Clause. That suit also sought to invalidate two New York State Executive Orders—Nos. 170 and 170.1—that prohibit New York State employees from cooperating with federal immigration enforcement.

On November 18, 2025, the U.S. District Court for the Northern District of New York upheld POCA’s validity. In its decision, the court held that New York State has the authority to regulate conduct in its courthouses and that protecting the integrity of the courts is a legitimate state interest that is not in conflict with federal law. Significantly, the court added the following paragraph:

53 NYSBA, *CLE Program—ICE Enforcement for Non-Immigration Lawyers: What to Expect*, Mar. 27, 2025, <https://nysba.org/events/ice-enforcement-for-non-immigration-lawyers-what-to-expect/>.

54 NYSBA, *CLE Program—Mission, Fiduciary Duty, and Immigration Law: New Challenges for Nonprofits*, May 15, 2025, <https://nysba.org/events/mission-fiduciary-duty-and-immigration-law-new-challenges-for-nonprofits/>.

55 N.Y. Civ. Rights Law § 28-a.

56 <https://www.ice.gov/doclib/foia/policy/11072.4.pdf>.

Violating the POCA creates potential criminal and civil liability. Specifically, willfully arresting someone in violation of the POCA or a court order, or willfully assisting such an arrest, constitutes "contempt of the court and false imprisonment." *Id.* § 28(2). Under New York law, those crimes are punishable by up to four years in prison.⁵⁷

On April 24, 2025, the Department of Justice sued the City of Rochester, seeking preliminary and permanent injunctions against Rochester's policies that prohibit city employees from assisting in federal immigration enforcement. The Department of Justice again alleged that Rochester's "sanctuary" policies violated the Constitution's Supremacy Clause by unlawfully regulating and discriminating against the federal government and bypassing laws that are preempted by federal regulations. Specifically, the DOJ asserted that the policies violate 8 U.S. Code § 1373, which prohibits state and local government from restricting the sharing of information between any government entity or official and federal immigration enforcement.

On November 13, 2025, the U.S. District Court for the Northern District of New York dismissed the federal government's case against Rochester without prejudice. The court held that the complaint was moot because the city had adopted a new sanctuary policy in August 2025. The new policy was not challenged by the federal government in any of their filings with the court, and the court did not decide the underlying merits of the case.

New York City has several laws prohibiting city employees, including police and Department of Corrections officers, from cooperating with ICE. On July 24, 2025, in *U.S.A. v. City of New York* (E.D.N.Y), the U.S. Department of Justice sued New York City to overturn these laws, once again arguing that the local laws violated the Supremacy Clause of the Constitution.

In April 2025, the administration of former mayor Eric Adams announced the reopening of an ICE office on Rikers Island. ICE had not operated at Rikers Island since 2014, when Local Law 58 was enacted. The New York City sanctuary law provides that New York City cannot be involved in deportation and directs city agencies to build trust with immigrants to ensure the public safety of all New Yorkers. Rikers Island has a long and documented history of violence, abuse, and mismanagement. In September, the New York State Supreme Court (New York County) declared the mayoral administration's executive order to re-open an ICE office at Rikers⁵⁸ "null and void,"

IV. Proposed Legislation and Policy

A. Recommendations for Law and Policy in New York State

1. Universal Immigration Representation in Removal Proceedings-New York Access to Representation Act (ARA).

⁵⁷ See N.Y. Penal Law §§ 215.50, 215.51, 135.05, 135.10; *United States v. New York*, No. 1:25-CV-00205 (N.D.N.Y. Nov. 18, 2025).

⁵⁸ N.Y. Immigration Coalition, *NYS Supreme Court Blocks NYC Mayor's Attempt to Bring ICE Back to Rikers Island*, Sept. 8, 2025, <https://www.nycic.org/2025/09/nys-supreme-court-blocks-nyc-mayors-attempt-to-bring-ice-back-to-rikers-island/>.

In addition to increased funding for legal representation, the New York State Legislature should adopt the Access to Representation Act (S.141/A.270). The Act would guarantee legal counsel for poor and indigent immigrants facing deportation in New York State, by providing lawyers to those who can't afford them, as occurs in criminal cases. It would make New York the first state to offer such universal representation to protect vulnerable immigrants from wrongful, expedited removal and significantly strengthen immigrant legal rights.

Unfortunately, legal representation still remains unavailable for an unacceptably large number of non-detained indigent noncitizens who appear before immigration courts and who face severe consequences as a result of deportation, including persecution and torture in their native countries. According to the Vera Institute of Justice, as of December 2025, nearly 1.88 million people in deportation proceedings did not have a lawyer, 91,000 of them in New York.⁵⁹ Thirty eight percent of detained immigrants in removal proceedings have no attorney to protect their rights.⁶⁰ Critically important is the fact that noncitizens who are represented in immigration court are 10.5 times more likely to succeed on the merits of their application for relief from removal.⁶¹ In general, legal service providers and former immigration judges have expressed serious concerns about the state of due process in the immigration courts of this country. Access to counsel is the best means of ensuring that noncitizens' rights are protected.

No case exemplifies the essential role of legal counsel better than the deportation of roughly 250 Venezuelan men to the Center for Terrorism Confinement (CECOT) in El Salvador, in defiance of a federal court order in March 2025. The men were deported without due process or legal representation under the Alien Enemies Act of 1798, a law last used to justify the internment of Japanese, Italian and German immigrants during World War II. As previously mentioned, two of the men deported were clients of the Bronx Defenders. After several months of detention in El Salvador, they were repatriated to Venezuela, the country which they had fled to seek asylum in the U.S. Their removals happened while their asylum cases were pending. The matter was the subject of a U.S. Supreme Court decision on its emergency docket. In September 2025, the federal appeals court for the Fifth Circuit issued a ruling blocking the administration from using the Alien Enemies Act to quickly deport the Venezuelan migrants. In a 2-1 ruling, the Court said that it did not find that the Act applied to the migrants because there had been no "invasion or predatory incursion" by a foreign power. The issue will again be heard by the Supreme Court.⁶² Other

59 Vera Inst. of Justice, *Immigration Court Legal Representation Dashboard*, <https://www.vera.org/ending-mass-incarceration/reducing-incarceration/detention-of-immigrants/advancing-universal-representation-initiative/immigration-court-legal-representation-dashboard> (last accessed Jan. 27, 2026).

60 *Id.*; oral testimony of Rosie Wang, Program Manager at the Vera Institute of Justice, to the NYSBA Comm. on Immigration Rep. at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement, Nov. 13, 2025.

61 Vera Inst. of Justice, *Advancing Universal Representation Initiative*, <https://www.vera.org/ending-mass-incarceration/reducing-incarceration/detention-of-immigrants/advancing-universal-representation-initiative>.

62 *W.M.M. v. Trump*, 154 F.4th 207 (5th Cir. Tex., Sept. 2, 2025).

immigrants have also been removed to nations not of their origin as part of expedited removal proceedings or returned to their own country where they faced violence and retribution.

New York State should continue to lead in access to justice by ensuring access to counsel for all indigent immigrants in removal proceedings and other proceedings critical to protect their legal rights.

2. Additional Funds for Immigration Legal Services and Training

The importance of well-resourced and competent legal services available to poor and low-income immigrants at this time cannot be overstated. In removal proceedings, there is currently no right to an attorney at government expense. As such, immigrants must be able to afford counsel or obtain the services of a nonprofit organization or pro bono attorney. Unfortunately, a burgeoning industry of fraudulent legal services providers preys on this vulnerable population, charging fees and promising immigration benefits that cannot be delivered. Immigrants turn to these services out of desperation when they cannot obtain assistance from reputable providers who have limited resources to meet the high demand.

As reported by the New York Legal Assistance Group, as of August 2025, 340,000 cases were pending before the New York State immigration courts. This number does not capture the full scale of immigration enforcement against New York residents who are placed into expedited removal proceedings.⁶³ Not only has there been a surge in the number of immigration-related arrests, but as of August 2025, more than 100,000 cases before the immigration court in New York State involve people without legal representation. That is, one in three people face removal proceedings, and their lifechanging consequences, without counsel.⁶⁴

3. Prohibiting the Use of New York State and Local Resources for Federal Enforcement—New York for All Act and Dignity Not Detention Act

The New York for All Act would prohibit county and local agencies across the state from using resources for immigration enforcement, among other measures. Specifically, New York for All would amend the New York State Criminal Procedure Law, Executive Law, General Municipal Law, and Correction Law to: (i) prohibit the use of state and local government resources for immigration enforcement; (ii) restrict the disclosure of sensitive information to ICE and CBP; (iii) prohibit Immigration and Nationality Act § 287(g) agreements, which deputize local law enforcement officers to enforce federal immigration law; (iv) require ICE and CBP to obtain a judicial warrant before accessing non-public areas of government property; and (v) establish

63 Written testimony from the New York Legal Assistance Group (NYLAG), to the NYSBA Comm. on Immigration Rep. at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement, Nov. 26, 2025.

64 Oral testimony of Rosie Wang, Program Manager at the Vera Institute of Justice, to the NYSBA Comm. on Immigration Rep. at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement, Nov. 13, 2025.

reporting requirements and oversight by the New York State Attorney General to ensure compliance.

Related to the New York for All Act in purpose, the proposed Dignity Not Detention Act (S.316 Salazar/A.4181 Reyes)⁶⁵, would limit federal immigration detention by prohibiting state and local governments from contracting with ICE to hold immigrants in county jails, forcing termination of existing with ICE.

Westchester County's successful implementation of the Immigrant Protection Act (the IPA) demonstrates that these measures are effective. While the county does not describe itself as a "sanctuary" jurisdiction, its Board of Legislators passed the IPA in 2018 to encourage and foster positive relations between county residents and law enforcement and improve public safety, while not impeding the enforcement of federal law.

The IPA prohibits county employees from asking about a person's immigration or citizenship status, unless this is a requirement for the receipt of public benefits, and punishes intimidation involving threats to call ICE. The IPA prevents authorities from allowing ICE to interview immigrants in county custody without a judicial warrant or the immigrant's consent, and then only in the presence of counsel. It also prohibits ICE's access to correctional facilities absent exigent circumstances. Strikingly, the county may be among the few counties, if not the only one, that does not recognize administrative detainers which allow local authorities to hold a noncitizen for an additional 48 hours after their release date so that ICE may pick them up, recognizing that these detainers are not judicial warrants.

As presented in testimony by Associate County Attorney for Westchester County Jason Whitehead,⁶⁶ despite the IPA, Westchester County and its communities have been adversely affected by federal immigration enforcement. He reported widespread fear among immigrants, especially those with no legal status, who are reluctant to conduct their daily lives, including attending school, medical appointments, and work. The county has also been adversely affected by the threat of federal funding cuts because of its immigration policies.

Westchester, unlike other counties, has chosen not to enter into a so-called 287(g) agreement with the federal government. Under such agreements, pursuant to the federal Immigration and Nationality Act, state or local police are empowered to act as federal immigration agents under ICE supervision, enabling them to identify, process, and detain immigrants for removal. New York State's Attorney General has expressed strong opposition, arguing these actions risk violating New York State law and undermining trust, with lawsuits ongoing to challenge these agreements as potentially unlawful under state law.

65 S.B. S.316, N.Y. State Senate (2025 Leg., Reg. Sess.), <https://www.nysenate.gov/legislation/bills/2025/S316>.

66 Oral testimony of Jason Whitehead, Program Manager at the Vera Institute of Justice, to the NYSBA Comm. on Immigration Rep at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement, Nov. 13, 2025.

Some New York State counties, including Broome, Nassau and Rensselaer, have entered into 287(g) agreements to cooperate with federal immigration enforcement agencies to expand enforcement resources. However, these programs have resulted in costly litigation, with courts holding that state and local officials violate the law when they participate in federal civil immigration enforcement.⁶⁷ Localities participating in 287(g) agreements run the risk of legal liability for racial profiling and civil rights violations, and undermine trust in local law enforcement.⁶⁸ Nassau County is now defending its decision to enter into a 287(g) agreement with the federal government.⁶⁹

The recent verdict in *Orellana Castaneda et al v. Suffolk County and Suffolk County's Sheriff's Office et al* is an example of what state and local jurisdictions face when they engage in federal civil immigration enforcement. On Friday, November 7, 2025, the U.S. District Court for the Eastern District of New York issued a \$112 million verdict after the judge held that the Suffolk County Sheriff's Office illegally detained approximately 674 people between 2016 and 2018. These individuals had completed custodial sentences for state and local offenses, posted bail or the charges against them were dismissed. However, instead of releasing them as required, Suffolk County Sheriff's Office continued to detain them beyond their legal mandate to do so. This was done in response to ICE's request for a detainer to process civil administrative detention warrants for these individuals based solely upon their immigration status. Suffolk County violated the law by honoring these administrative requests.⁷⁰

New York State should pass the New York For All Act, which would explicitly prohibit state and local agencies from assisting with federal immigration enforcement. Similar laws in states like California, Colorado, Illinois, Vermont and Washington have set a precedent for stronger protections, ensuring that local resources are not used to facilitate deportations.⁷¹ By passing this legislation, New York State would reinforce its commitment to immigrant inclusion, prevent the loss of trust between immigrant communities and government institutions, especially law

67 Alicia Bannon, *State Challenges to Immigration Enforcement Practices: Analysis & Opinion*, State Court Report, Nov. 20, 2025, <https://statecourtreport.org/our-work/analysis-opinion/state-challenges-immigration-enforcement-practices>.

68 *Assumption of Risk: Legal Liabilities for Local Governments that Choose to Enforce Federal Immigration Laws* (American Immigration Council; American Immigration Lawyers Association; National Immigrant Justice Center; National Immigration Law Center; Southern Poverty Law Center, Mar. 2018).

69 Oral testimony of Rex Chen, Supervising Counsel for Immigrant Rights at Latino Justice, to the NYSBA Comm. on Immigration Rep. at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement, Nov. 13, 2025. See also N.Y. Civ. Liberties Union, *Lawsuit: NY Orgs File First Suit in New York Over Unlawful Deputization of Local Officers as ICE Agents in Nassau County*, June 24, 2025, <https://www.nyclu.org/press-release/lawsuit-ny-orgs-file-first-suit-in-new-york-over-unlawful-deputization-of-local-officers-as-ice-agents-in-nassau-county>.

70 *Id.*

71 Cal. Gov't Code §§ 7284–7284.12; Wash. Rev. Code Ann. § 10.93.160; 5 Ill. Comp. Stat. Ann. 805/15; Colo. Rev. Stat. Ann. § 24-76.6-102; Vt. Stat. Ann. tit. 20, §§ 4651–4652; Or. Rev. Stat. Ann. § 181A.820 (2025)

enforcement, and guarantee that state and local authorities do not expend resources to further federal immigration enforcement.⁷²

4. Enact the Sanctuary Hospitals Act (A.9589)

Among the policy changes to expand immigration enforcement, the Department of Homeland Security rescinded prior guidance that treated schools, hospitals and places of worship as protected locations where enforcement actions were to be avoided if at all possible. In a Policy Memorandum issued on January 20, 2025, DHS reversed this protected status. The new Memorandum allows enforcement at these critical venues of public life at the discretion of ICE agents, leaving immigrants vulnerable as they seek health care, education and religious worship.⁷³ The Sanctuary Hospitals Act, pending before the New York State Legislature, would bar ICE enforcement at hospitals unless ICE has a judicial warrant. A judicial warrant is currently required to search private locations at a hospital, although not required for ICE to enter public spaces such as the lobby. However, a recent ICE Memorandum allowing ICE to enter a private home to detain an individual without a judicial warrant reflects the ongoing erosion of Fourth Amendment protections and the imminent risk to other institutions where people should expect refuge.⁷⁴

The Committee recommends passage of the Sanctuary Hospitals Act to serve as a safeguard against further ICE policy changes to expand government enforcement rights at hospitals and urges that the Act be expanded to cover health care facilities (not only hospitals), educational institutions (schools and universities) and places of worship.

5. Support SNAP for All (A.6632)

Testimony at the public hearing also focused on how the 2025 federal spending bill, Pub. L. No. 119-21, 139 Stat. 72 (2025), known as H.R. 1, affects vulnerable immigrant families, including refugees from many nations, as well as victims of domestic violence and human trafficking lawfully present in the United States. Governor Hochul has estimated that 41,000 of these New Yorkers will lose their benefits for the Supplemental Nutrition Assistance Program (SNAP). The 1996 Personal Responsibility and Work Opportunities and Reconciliation Act (PRWORA) had already imposed severe restrictions to immigrants on access to these key benefits.⁷⁵

⁷² Memorandum in Support of the New York for All Act, N.Y. State Bar Ass'n Comm. on Immigration Representation (Feb. 19, 2025).

⁷³ Dep't of Homeland Sec., *Policy Memorandum: Enforcement in or Near Protected Areas*, Jan. 20, 2025.

⁷⁴ In a memo leaked by whistleblowers in January 2026, ICE's Acting Director stated in May 2025 that ICE could forcibly enter the homes of people with orders of removal against them without a judicial warrant. DHS Office of General Counsel determined that "the U.S. Constitution, the Immigration and Nationality Act, and the immigration regulations do not prohibit relying on administrative warrants for this purpose." See Laura Strickler and Phil Heisel, *ICE says its officers can forcibly enter homes during immigration operations without judicial warrants: 2025 memo*, NBC News, Jan. 21, 2026, <https://www.nbcnews.com/news/us-news/ice-policy-officers-enter-homes-immigration-without-judicial-warrant-rcna255305>.

⁷⁵ Office of the Governor of N.Y., *Governor Hochul Joins U.S. Representative Ritchie Torres to Warn About Crippling Effects of Republicans' Big Immigration Enforcement Plan*, Nov. 20, 2025,

A bill in the New York State Assembly (A.6632/Gonzales-Rojas) would create a state-funded program known as “SNAP for all,” that would restore SNAP benefits with state dollars for the families who lost SNAP under PRWORA restrictions, including those with work permits, Temporary Protected Status, asylum, U visas and Deferred Action for Childhood Arrivals (DACA) status.⁷⁶ The bill would also extend benefits for individuals who are losing SNAP benefits as a result of H.R. 1. The total cost of the “SNAP for all” bill was calculated at \$141 million before the additional restrictions imposed by H.R. 1 and was based on providing SNAP benefits to 65,000 households. The creation of “SNAP for all” is one of the priorities of the Governor’s Child Poverty Reduction Council and should be fully supported.

B. Recommendations for Federal Law and Policy

1. Support the Real Courts Rule of Law Act

Former immigration judge Carmen Maria Rey Caldas, testifying on behalf of a group of former immigration judges, offered striking testimony about the state of the nation’s 70 immigration courts. As she stated, “Historically, the United States has benefitted from a formal, centralized process in which federal officers determine whether to exclude or deport non-citizens for approximately the last 144 years.”⁷⁷

There are six immigration courts in New York, with two exclusively reserved for the cases of detained immigrants: the Buffalo Federal Detention Facility in Batavia and the Ulster Immigration Court in Napanoch. The Varick Immigration Court in Manhattan hears a mixed docket of detained and non-detained cases. The remaining courts are in Buffalo and New York City. The immigration courts of this state employ 78 judges.

Immigration courts across the United States “have been the subject of long-standing complaints, long delays, poor quality of adjudications, and increasingly, politicization.”⁷⁸ The Administration has instituted a series of changes that fail to address these concerns and overall have the effect of undermining the independence of immigration adjudication and the rule of law. First, many more non-citizens are now subject to detention during the entire pendency of their removal proceedings. Second, fewer adverse immigration court decisions are appealable. While adverse immigration court decisions may be appealed to the DOJ’s Board of Immigration Appeals and then to the federal Circuit Courts, the fee for of an appeal to the Board was recently raised from \$110 to \$1,010,

<https://www.governor.ny.gov/news/governor-hochul-joins-us-representative-ritchie-torres-warn-crippling-effects-republicans-big>.

⁷⁶ Written testimony of Susan C. Antos, Managing Attorney at Empire Justice Center, to the NYSBA Comm. on Immigration Representation at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement, Dec. 1, 2025.

⁷⁷ Oral testimony of Carmen Maria del Rey Caldas, Association of Former Immigration Judges, to the NYSBA Comm. on Immigration Representation at a Public Virtual Hearing on Social, Practical and Legal Challenges in Current Immigration Law, its Reform and Enforcement, Nov. 13, 2025.

⁷⁸ *Id.*

thereby limiting the most viable check on an immigration court's reasoning and application of the law for the lowest income noncitizens.

To date, U.S. Citizenship and Immigration Services had been responsible for issuing benefits, such as employment authorization, permanent residence, and naturalization, but had not engaged in law enforcement activities. Following guidance issued in February 2025, USCIS will now be obligated to place every person whose application for benefits is denied into removal proceedings. This could have a far-reaching impact on access to benefits as well as increase the likelihood of deportation without adequate representation. Applicants for benefits will no longer have the opportunity to correct trivial errors, submit additional evidence to strengthen their cases, or simply refile. Such options were an efficient means for service providers to address poorly prepared matters filed by unscrupulous non-attorneys who engage in the unlawful practice of law. By placing a greater number of failed applicants in removal proceedings, more attorneys will be needed to litigate in a complicated and adversarial setting, requiring greater resources in an area of law where representation for indigent clients is already stretched thin.

Additionally, the Department of Justice has instructed immigration judges about how to adjudicate their cases within short timelines, including complex matters like asylum. Judges have been directed to pretermite cases, effectively denying a person an opportunity to be heard. At least two judges in the New York City immigration court may have been terminated for granting relief from removal at rates higher than average. So far this year, the Trump administration has dismissed at least 98 of the approximately 700 immigration judges who were on the bench, according to the National Association of Immigration Judges, an organization that advocates for independent immigration courts. Dozens more have retired or resigned.⁷⁹ “The cumulative effect of these actions is to restrict immigration judges’ discretion in handling their caseloads. . . and place a great demand on immigration attorneys to dedicate an increased amount of time to cases.”⁸⁰

The fact that fewer non-citizens in removal proceedings are eligible for release, even if they are not a danger to the community or a flight risk, is also changing the nature of immigration legal practice. Increasingly, the sole means for noncitizens to challenge long-term detention is through federal habeas litigation. Unfortunately, many non-profit legal service organizations do not have the requisite resources for and experience with such federal litigation and must rely on pro bono attorneys from outside their agencies. While training is available from institutions such as the Cardozo Law School Habeas Institute, and the District Court for the Southern District of New York recently issued a pro se guide for habeas litigation, the ability to handle such cases remains limited.

Congress should adopt the Real Courts Rule of Law Act (H.R. 6577/H.R. 7724), which would create an independent immigration court system under Article I of the Constitution, similar to the U.S. Tax Court and the U.S. Court of Appeals for Veterans Claims and would separate the operation

⁷⁹ Emily Ngo, *Immigration courts thrown into chaos as Trump administration purges dozens of judges*, Politico, Dec. 6, 2025, <https://www.politico.com/news/2025/12/06/trump-immigration-court-judge-purges-00679376>.

⁸⁰ Oral testimony of Carmen Maria del Rey Caldas, *supra* note 77 .

of immigration courts from political influence under this or future administrations. Under the proposed Act, immigration judges would have the authority to impose civil monetary penalties for contempt and access to resources to protect due process through access to counsel, legal interpretation in proceedings and legal orientation programs.⁸¹

2. Support the Fairness to Freedom Act and SHIELD Act

Ultimately, Congress should ensure access to counsel for immigrants facing deportation and fund state-run immigration legal services programs by enacting the Fairness to Freedom and Shield Act (“SHIELD Act”). The Fairness to Freedom Act would make the Sixth Amendment right to counsel a reality for immigrants facing deportation nationwide by requiring that the federal government fund legal representation for immigrant who cannot afford to pay for an attorney. FTF would ensure government-facilitated access to counsel for people in government custody or facing removal at a border through an independent Office of Immigration Representation that works with existing state and locally funded removal defense programs.⁸²

The SHIELD Act would provide support to existing state and local programs providing immigration legal services by establishing a four-year renewable competitive federal grant program to state and local governments, not-for-profit organizations and educational institutions. This funding would prioritize program sustainability and focus on underserved areas. It would help to ensure that immigrants facing deportation receive high quality, holistic and linguistically appropriate immigration legal services, and retention of a legal services workforce to meet the needs of people facing deportation.⁸³

V. Conclusion

The record developed before the New York State Bar Association Ad Hoc Immigration Committee presents a stark and unified picture. Across regions, practice settings, and institutional roles, witnesses described federal immigration enforcement practices that have expanded rapidly in scope, speed, and severity, while narrowing practical access to counsel, judicial review, and the courts themselves. These changes have produced cascading consequences: destabilized families, chilled participation in civic institutions, mounting strain on nonprofit legal providers, and increasing pressure on state and local systems designed to safeguard due process.

At its core, the testimony reveals that immigration enforcement is no longer operating at the margins of New York’s justice system. It is reshaping the daily functioning of family courts, criminal courts, hospitals, schools, workplaces, places of worship and community organizations throughout the state. The chilling effect of courthouse enforcement, the sharp rise in detention

81 H.R. 6577, 117th Cong. (2021), <https://www.congress.gov/bill/117th-congress/house-bill/6577/text>; see also Am. Immigration Lawyers Ass’n, *Immigration Courts*, <https://www.aila.org/featured-issues/immigration-courts>.

82 H.R. 3127, 119th Cong. (2025), <https://www.congress.gov/bill/119th-congress/house-bill/3127>, see also Vera Inst. of Justice, *Fairness to Freedom*, <https://www.vera.org/fairness-to-freedom> (last accessed Feb. 2026).

83 *Id.*; see also H.R. 8980, 118th Cong. (2024), Text (as introduced Jul. 10, 2024), <https://www.congress.gov/bill/118th-congress/house-bill/8980/text>.

without bond, and the widespread use of expedited removal have combined to undermine confidence in the fairness and accessibility of legal processes that are fundamental to democratic governance.

The Committee heard repeatedly that access to counsel is the single most decisive factor in determining whether noncitizens can navigate these processes lawfully and effectively. Representation determines whether individuals understand proceedings, present evidence, pursue relief, preserve appellate rights, and avoid wrongful removal. Yet the same enforcement practices that heighten the need for legal assistance are overwhelming the nonprofit infrastructure that supplies it. Even in a state that has invested heavily in immigrant representation, demand now outpaces capacity.

New York State's long-standing leadership in this arena remains one of the most hopeful features of the record. Programs such as the New York Immigrant Family Unity Project, the Regional Immigration Assistance Centers, Office of New Americans-funded providers, and IOLA-supported organizations have built a statewide framework that to provide legal services and judicial integrity. County-level initiatives, public education campaigns, and Attorney General enforcement efforts further demonstrate how state and local action can mitigate harm while respecting constitutional boundaries. At the same time, as the testimony makes clear, these protections are increasingly fragile. Without legislative reinforcement, stable funding streams, and continued vigilance by the bench and bar, even the most robust state systems for legal services and judicial access risk erosion.

For that reason, the Committee's recommendations are not abstract policy preferences; they are concrete responses to harms already occurring in communities across New York. Enacting statewide access-to-counsel legislation, expanding and stabilizing funding for immigration legal services, protecting sensitive locations, limiting entanglement between state resources and federal civil enforcement, and restoring access to nutrition and health programs are essential to preserving the functioning of New York's courts and the dignity of those who appear before them. At the federal level, structural reform of the immigration courts and nationwide funding for representation would restore adjudicatory independence and ensure that enforcement does not eclipse due process.

The New York State Bar Association has long recognized that the integrity of the justice system depends on more than the formal existence of legal rights; it depends on whether those rights can be meaningfully exercised. The testimony before the Committee reflects a profession responding to extraordinary strain with professionalism, courage, and resolve.

This Report urges the House of Delegates to adopt a resolution to support the proposed legislation and policies set forth herein, and thereby continue NYSBA's leadership in shaping law and policy during a period of profound national change. The stakes described in this record extend well beyond immigration law. They implicate the role of lawyers, the independence of courts, and the basic promise that New York's legal institutions remain open to all who seek justice.

APPENDIX

SUMMARY OF THE TESTIMONY PROVIDED ON NOVEMBER 13, 2025 AT THE PUBLIC HEARING CONVENED BY THE NYSBA COMMITTEE ON IMMIGRATION REPRESENTATION ENTITLED “SOCIAL, PRACTICAL AND LEGAL CHALLENGES IN CURRENT IMMIGRATION LAW, ITS REFORM AND ENFORCEMENT”

CRITICAL FUNDING FROM INTEREST ON LAWYER ACCOUNTS FOR LEGAL SERVICES

Christine Fecko, the Executive Director of the Interest on Lawyer Accounts (IOLA) Fund, a fiduciary fund dedicated to supporting civil legal aid organizations across New York State by offering general operating grants, testified that in fiscal year 2025, IOLA distributed \$60 million dollars to 87 nonprofit agencies. These organizations served over 1.1 million New Yorkers in a variety of civil legal services, including immigration matters. This funding is critical since the federal government has sought to cut its support for legal services for the poor. It is estimated that this cut will entail a loss of \$137 million. Twenty legal aid organizations in New York State rely on federal funding, which can comprise up to 27% of their budgets. Some cuts have already occurred, and others are at issue in litigation. While IOLA has committed over \$560 million in general operating support over the next five years in an attempt to compensate for these huge losses of federal monies, more funding will undoubtedly be needed to bridge the justice gap faced by low-income noncitizens.

Fifty-four of the 87 IOLA grantees in New York are frontline immigration service providers and their advocacy benefitted nearly 140,000 people in 2025, when they closed 67,000 cases. Among those served, 2,500 were awarded United States citizenship, a benefit that is now being denied to many by the Trump Administration which has cancelled some naturalization ceremonies across the state and threatened to denaturalize others who were granted this status. In a statement on November 19, 2025, Attorney General Letitia James expressed her “grave concern” about U.S. Citizenship and Immigration Services’ abrupt decision to cancel naturalization ceremonies in Broome, Onondaga, Rockland, Schenectady, Tompkins, Washington, and Westchester Counties. She further stated that this distressing action was sudden and “has caused alarm and disappointment from a bipartisan group of county officials, local leaders, and community members. They received this news on short notice, without adequate explanation, and without any effort to address and resolve any obstacles.” (<https://ag.ny.gov/press-release/2025/attorney-general-james-calls-federal-government-reverse-naturalization-ceremony>)

Nine thousand cases funded by IOLA in FY25 involved obtaining asylum, permanent residence, or some other affirmative immigration benefit, including special visas for victims of human trafficking and serious crimes, and 7,000 cases resulted in a noncitizen obtaining employment authorization, allowing them to work lawfully in the U.S. and contribute to the economies of their local communities and the state. IOLA’s own studies indicate that immigration legal services

resulted in over \$900 million in financial benefits by increasing immigrants' wages and generating more tax revenue.

Importantly, IOLA funding has also critically served to fund lawyers who represent indigent noncitizens in removal proceedings, resulting in almost 1,300 cases being granted relief from deportation and limiting the separation of families and allowing those who have called the U.S. home for years to remain. Advocates also worked to secure their clients' release from immigration detention, which is becoming increasingly difficult to do as set forth below. In general, service providers and former immigration judges have expressed serious concerns about the state of due process in American immigration courts. Access to counsel is the best means of ensuring that noncitizens' rights are protected.

The importance of having well-resourced and competent legal services available to poor and low-income immigrants cannot be overstated. In removal proceedings, there is no right to an attorney at government expense. As such, immigrants must be able to afford counsel or obtain the services of a nonprofit organization or pro bono attorney, though IOLA strongly supports guaranteed legal representation funded by New York State. According to the Vera Institute of Justice, "as of April 2025, nearly 2.3 million people in deportation proceedings did not have a lawyer. Sixty-three percent of detained immigrants in removal proceedings have no attorney to protect their rights."

Immigration service providers have historically engaged in a number of effective partnerships to deliver critical services to clients who need representation including training and mentoring pro bono lawyers in deportation defense, involvement in law school clinics, providing pro se and Know Your Rights guidance to their communities, limited-scope legal clinics to address the most emergent needs, and utilizing non-lawyer representative specially accredited by the U.S. Department of Justice Executive Office for Immigration Review. These partnerships will become more and more important, but they are a finite resource and cannot replace well trained immigration lawyers.

IMMIGRANT JUSTICE CORPS, LATINOJUSTICE AND VOLUNTEER LAWYERS PROJECT AND THEIR UNIQUE MODEL OF SERVICE DELIVERY

One unique model of representation was created by the Immigrant Justice Corps, the nation's first and only fellowship program, founded by the late Judge Robert A. Katzmann of the Second Circuit Court of Appeals, and dedicated to expanding high quality legal services by placing well trained new lawyers in agencies delivering immigration services throughout the state and country. The Chief Program Officer for IJC, Maryann Tharappel, testified that over the past 11 years, 500 fellows have participated in the IJC program in nearly 50 New York legal service organizations.

IJC confirmed that fewer immigrants in detention are being granted a bond for release at this point, frustrating access to counsel, and that expedited removal—a procedure that first appeared in the 1996 immigration law but was largely ignored as an enforcement tool by previous presidential administrations—is now utilized regularly to remove noncitizens without court appearances. It is

also striking that IJC believes there is a “brain drain of seasoned talent” in the field of immigration law as a result of the current level of enforcement, trauma to clients, as well as the dwindling resources available to lawyers who practice in this area of law in non-profit agencies. Secondary trauma and compassionate fatigue have always plagued lawyers in this field, but it may be even more prevalent today.

Testimony was also presented by Sara McDowell of the Volunteer Lawyers Project of Central New York (VLPCNY), which serves that region of the state in a host of civil legal matters, including the provision of immigration representation. VLPCNY also recruits, trains and mentors pro bono attorneys to handle various immigration law matters since “immigration enforcement has reached unprecedented levels in recent months, while legal and procedural protections from detention and deportation have whittled away.” VLPCNY has seen some clients in the process of obtaining permanent residency abandon their applications and return to their native countries. The fear and stress caused by ICE was too severe. The agency’s services have pivoted to support immigrant clients with more advance planning for potential detention and removal to properly have their U.S. citizen children cared for in their absence. This may involve establishing guardianships and powers of attorney.

In an ICE raid in Cato, VLPCNY reported that mostly female factory workers were rounded up and arrested. Many were mothers of young children who came home from school to find that their mothers had not returned home from work. Some mothers were breastfeeding infants. The women were detained in Texas and Louisiana, where their children could not visit them, and they could not reach their lawyers or provide evidence of lawful status. The upheaval is not only felt by families, but industries in Central New York are losing hardworking and reliable employees.

LatinoJustice, a 50-year-old organization, focuses on impact litigation affecting racial and civil rights to advocate for its clients. According to Rex Chen, they were recently involved in litigation on birthright citizenship in the District Court for the SDNY, and won a \$112 million verdict against the Suffolk County Sheriff’s Department for holding noncitizens whose criminal charges were dropped so that ICE could pick them up. LatinoJustice along with the NYCLU and Hofstra Law School are now suing Nassau County for signing a 287(g) agreement with ICE, as well as the federal government, whom they allege is not releasing relevant immigration documents pursuant to the Freedom of Information Act. LatinoJustice believes that while it is time-consuming and costly to bring such lawsuits, often requiring the assistance of large law firms, the impact can be tremendous, and so this litigation deserves funding. Another impactful strategy is to support and help the State Attorney General’s Office investigate illegal practices by ICE.

THE IMPACT OF ENFORCEMENT ON WOMEN AND CHILDREN

Kids in Need of Defense (KIND), an IOLA-funded agency offering comprehensive legal representation to immigrants in removal proceedings in and around New York State, was founded in 2008 to provide legal assistance to unaccompanied immigrant children. Its New York City office serves children in all five boroughs, as well as Westchester, Nassau and Suffolk Counties.

Testimony was presented by the Acting Managing Attorney for KIND's Detained Program, Adam Walsh.

KIND offers a holistic approach to representation to address the trauma and critical needs of the children they help. Their staff of lawyers and social workers have observed "significant and troubling trends related to immigration enforcement practices." In the past year, the organization has observed a substantial increase in caregivers who refuse—or are extremely hesitant—to participate in family court proceedings due to fear of immigration enforcement. Caregivers have reported that they fear being detained or targeted simply by appearing in or near a courthouse. While this trend is particularly evident in cases involving Special Immigrant Juvenile Status (SIJS), which require children and caregivers to appear in New York family courts, it reflects a broader mistrust of government spaces and judicial institutions among immigrant communities. This fear directly impedes children's access to critical legal protections, including custody determinations, guardianship orders, and findings necessary for immigration relief. The effect is to undermine the core functions of New York's family court system and places vulnerable youth at heightened risk.

KIND is also seeing enforcement-driven fear impairing the administration of asylum cases, where witness testimony is often essential to corroborate past persecution or factual elements of a claim. This phenomenon reveals how enforcement practices can obstruct not only immigration relief but the due process rights of individuals seeking protection.

KIND currently represents a young person who was arrested during the Canal Street enforcement operation, although the federal government had adjudicated him as a special juvenile whose best interest would be served by remaining in the United States. He has no known criminal record. Following this operation, KIND received multiple reports from clients, particularly SIJS recipients and other youth with legal protection, that they are now afraid to appear in public spaces, including schools, workplaces, and public transportation. Some have restricted their movement to essential errands; others have canceled appointments or withdrawn from community activities. These are individuals who have already been screened by federal authorities, granted protection, and in many cases had their immigration court cases closed. Their heightened fear illustrates the profound community-wide consequences of enforcement actions, even when such actions are not directed at them. The result is reduced participation in education, employment, and civic life—outcomes that are contrary to the goals of humanitarian relief programs and detrimental to New York's communities.

The Committee also received testimony from Esther Lim, the Director of Immigration Practice at Her Justice, a non-profit agency founded in 1993 that advocates with and for women and gender minorities living in poverty in New York City. Like the Volunteer Lawyers Project in Buffalo and Central New York, Her Justice utilizes a pro bono approach, partnering with some of New York City's largest firms to provide essential civil legal representation in a variety of areas. Among the clients served in 2024, 92% were women of color, 85% are domestic violence survivors and three-

quarters were born outside of the U.S., originating from 103 different countries. The demand for legal services from Her Justice has increased.

The most salient changes affecting the clients of Her Justice include the loss of a victim-centered approach to law enforcement that ICE once practiced pursuant to directives, which placed value on identifying and stabilizing victims of crime, domestic violence and human trafficking and exercising prosecutorial discretion. After years of determined litigation on the issue, case law that had established domestic violence as a plausible basis for an asylum claim has been overturned, and immigrant victims of crime are fearful of seeking help from police or the courts. Their assailants' threats of reporting them to ICE has once again become a reality.

In 2023, Her Justice published a policy paper called, "Stories from Immigrant Survivors of Gender-Based Violence: The Impact of Work Authorization," which highlighted the remarkable contributions of immigrant women and the severe consequences of not being able to work legally. These women are often mothers supporting families and contributing to New York's economy. The research demands a commitment from lawmakers to keep access to employment authorization viable so that immigrants can legally secure employment. A recently proposed federal rule to eliminate automatic extensions puts immigrants' jobs at risk.

THE IMPACT ON IMMIGRANT PROFESSIONALS

An attorney in the private sector, Shannon McNulty, testified that her clients are concerned about the legal and economic environment of the United States. "High net worth clients are inquiring about moving capital abroad, storing precious metals outside the U.S, and purchasing foreign real estate to provide a financial hedge and a potential exit strategy [They] fear that the institutions that have historically upheld due process and stable legal systems are weakening." U.S.-born individuals are seeking a second passport in growing numbers. The U.S. is clearly jeopardizing its place in the world as a magnet for talent, capital and innovation.

Cianna Freeman-Tolbert, who practices employment-based immigration law in the private sector, also expressed concern about what she is seeing. Her clients include institutions of higher education, pharmaceutical and health care companies, and they have all experienced visa suspension in the recent months, with nationals of certain countries completely banned from admission to the U.S. Screening of foreign nationals at ports-of-entry has also been more assertive, including inspections of social media. Freeman-Tolbert frequently screens inquiries from clients who want to know whether to travel abroad with their cell phones or laptops for fear of confiscation of those devices by CBP. In addition, certain applications for visas for professionals now carry a \$100,000 supplemental fee such that universities and health care providers question whether to recruit and bring foreign scholars to the United States. Health care institutions also express concern from the directive that allows ICE to enforce immigration law in hospitals and other formerly "sensitive" locations.

THE EMPIRE JUSTICE CENTER’S CONCERN WITH PUBLIC BENEFITS FOR IMMIGRANTS AND THE NEED TO SUPPORT “SNAP FOR ALL”

The Empire Justice Center is a statewide, multi-issue, multi-strategy non-profit civil legal aid provider with offices in Rochester, Albany, Yonkers, White Plains, Central Islip and Hempstead. The focus of the testimony by its Managing Attorney, Susan C. Antos, is on the 2025 federal spending bill (Pub. L. No. 119-21) known as H.R. 1, and how it affects vulnerable immigrant families, including refugees from many nations and victims of domestic violence and human trafficking who are lawfully present in the United States.

Governor Hochul has estimated that 41,000 of these New Yorkers will lose their benefits for the Supplemental Nutrition Assistance Program (SNAP), after the 1996 Personal Responsibility and Work Opportunities and Reconciliation Act (PRWORA) had already imposed severe restrictions to immigrants on access to such vital benefits.

A bill in the New York State Assembly (A.6632/Gonzales-Rojas) would create a state-funded program known as “SNAP for all,” that would restore SNAP benefits with state dollars for the families who lost SNAP under PRWORA restrictions (those with work visas, those with Temporary Protected Status, asylum seekers, U visa holders and those who have Deferred Action for Childhood Arrivals (DACA)) and would also include benefits for those who are losing SNAP benefits as a result of H.R. 1. The total cost of the “SNAP for all” bill was calculated at \$141 million dollars before the additional restrictions imposed by H.R. 1, 2 and was based on providing SNAP benefits to 65,000 households. The creation of “SNAP for all” is one of the priorities of the Governor’s Child Poverty Reduction Council, and should be fully supported.

In a cruel blow to immigrants who are elderly or disabled, H.R. 1 will result in the termination of Medicare benefits in January 2027 to all immigrant participants except green card holders, certain immigrants from Haiti and Cuba and certain immigrants from Palau, the Marshall Islands, and Micronesia. Immigrants who have lived, worked, and paid other taxes in the United States for decades with the promise of future coverage, will now have no health care coverage. Many of those losing Medicare coverage remain eligible for Social Security benefits.

Before H.R. 1, many immigrants who were lawfully present could buy in to Medicare if they had worked the number of requisite work quarters and met the age or disability requirement. These individuals could qualify for Medicare without paying a premium for Part A after turning 65 and after paying payroll taxes for 10 years. Individuals with forgoing disqualifying statuses who are currently enrolled in Medicare will be disenrolled, and will either need to find other coverage or will become uninsured. While it has been estimated that this change will reduce federal spending by \$100 million in the ten-year period between 2025–2034, the human cost will be immense. Many immigrants who lose Medicare will likely face devastating health outcomes caused by their reduced access to care and may incur significant medical debt. The Medical needs of immigrants without Medicare who are facing a health crisis will strain emergency services and increase costs to the state and local governments.

Finally, effective October 1, 2026, states will no longer be reimbursed for Medicaid or CHIP benefits provided to refugees, asylees, Afghani and Ukrainian nationals, and victims of human trafficking and domestic violence. States will only receive reimbursement for Medicaid and CHIP services provided to green card holders, certain immigrants from Haiti and Cuba and certain immigrants from Palau, the Marshall Islands, and Micronesia. As with the Medicare cuts, this will strain emergency services and increase costs to the states and to local governments.

NEW YORK CITY’S LEGAL AID SOCIETY, BRONX DEFENDERS, AND NEW YORK LEGAL ASSISTANCE GROUP RISE TO MANY CHALLENGES

The Legal Aid Society (LAS) in New York City, which has maintained a city-wide Immigration Law Unit (ILU) for almost forty years, echoed many of the aforementioned concerns in the testimony presented by Deborah Lee, the Attorney-in-Charge of the ILU. LAS, like many such providers of free legal services, remains a vital check on the devastating effects of poverty and inequality. Over the most recent fiscal year, the ILU assisted nearly 8,600 individuals in legal matters ranging from filing applications for benefits to representation in immigration court, and federal court habeas corpus petitions. They also provide training to other advocates and service providers and to the community at large.

According to LAS, “the most immediate and significant threat” facing non-citizen New Yorkers is detention by federal immigration authorities, often with no opportunity for release on bond, resulting in detention for months or potentially years. Also, and as described in more detail below, “the federal administration has advanced sweeping litigation strategies aimed at invalidating state and local measures designed to safeguard due process and access to justice.”

Of serious concern to LAS is the impact on ICE enforcement in New York City immigration courts and ICE offices as a result of a January 28, 2025 policy memo allowing such aggressive and intimidating enforcement against immigrants who show respect for the legal system by appearing for their hearings and other required appointments with authorities. Through the end of July 2025, LAS reports that ICE made 460 arrests in NYC immigration courts, more than any other city in the U.S. Clearly, the chilling effect on the legal system’s ability to properly function when noncitizens called to appear and witnesses are afraid of ICE arrest and detention when they abide by court mandates is very problematic.

Karla Ostolaza, the Managing Director of the Immigration Practice at Bronx Defenders testified that nearly one-third of Bronx residents are foreign born. Each year, their agency provides legal representation to more than 2,000 immigrants in the borough. They, like the Volunteer Lawyers Project in Buffalo, are a state-funded NYIFUP provider of removal defense representation for detained noncitizens. Bronx Defenders characterizes the current environment as a “collapse of due process” and urges all New York jurisdictions to stop “colluding with ICE, and instead intervene to mitigate the profound harm inflicted on communities across the State.”

The New York for All Act, S.2235 (Gounardes)/A.3506 (Reyes) would be a positive step forward. According to the New York Immigration Coalition, the bill would help immigrant New Yorkers lead more open lives and take care of family, preserves state and local resources for our communities, and ensure New York dollars cannot be diverted to carry out a cruel, politicized immigration agenda. The legislation prohibits New York's state and local government agencies, including police and sheriffs, from colluding with ICE, disclosing sensitive information, and diverting personnel or other resources to further federal immigration enforcement.

Two of the Venezuelan men deported in March to the notorious Center for Terrorism Confinement (CECOT) in El Salvador, pursuant to the Alien Enemies Act of 1798 and in defiance of a federal court order, were clients of the Bronx Defenders. The Alien Enemies Act was last used to justify the internment of Japanese, Italian and German immigrants during World War II. After several months of detention in El Salvador, these men were repatriated to Venezuela, the country which they had fled to seek asylum in the U.S. Their removals happened while their asylum cases were pending. The matter was the subject of a U.S. Supreme Court decision on its emergency docket. In September 2025, the federal appeals court for the 5th Circuit issued a ruling blocking the administration from using the Alien Enemies Act to quickly deport the Venezuelan migrants. In a 2-1 ruling, the court said that it did not find that the act applied to the migrants because there had been no "invasion or predatory incursion" by a foreign power. The issue will again be heard by the Supreme Court. *W.M.M. v. Trump*, 154 F.4th 207 (5th Cir. Tex., Sept. 2, 2025).

The Bronx Defenders described the removal of its Venezuelan clients as a "preview of what was to come," including incommunicado detention, unpredictable transfers of represented clients to faraway locations, the immigration courts abandoning any semblance of neutrality, and third-country removals. The effects have been destabilizing on the immigrant community. Like LAS, the Bronx Defenders has witnessed clients attempting to comply with the law, arrested when they present themselves at ICE offices, and detained with no chance of release even if they have no criminal arrests. The people most deeply harmed are overwhelmingly Black, brown and low-income. The agency strongly supports Dignity not Detention (S.316 Salazar/A.4181 Reyes), proposed legislation aiming to end New York's involvement in federal immigration detention by prohibiting state and local governments from contracting with ICE to hold immigrants in county jails, forcing termination of existing deals and preventing profiteering from detention, thereby keeping families together and ensuring immigrants are not held in punitive local jails.

The New York Legal Assistance Group (NYLAG) offered written testimony. The agency has five units that provide free immigration legal assistance. In FY25, they provided services in 18,643 cases benefiting 48,721 individuals, including children.

NYLAG identified a "dramatic sea change" in immigration law and policy since January 2025, which include unprecedented enforcement, violent arrest, an exponential increase in detention and rapid deportations, even to third countries. Between January and July 2025, nearly 5,000 New Yorkers were arrested by ICE, more than the total of people arrested the previous year. In addition,

the Administration is eviscerating the asylum system and dismantling neutral adjudications of relief from removal and affirmative applications. NYLAG once relied on expanded reach through high volume, “low-touch” services, clinics and pro bono attorneys. Now, They believe it is necessary to offer comprehensive, in-depth services to include safety planning for its clients and federal court litigation. New York must fund new deportation defense services, sustain current programs and build capacity to adapt and respond to the current landscape. This would also involve multi-year, flexible and innovative programming.

NYLAG also expressed concern for ICE’s tactics of arresting more than 170 U.S. citizens in 2025, including city officials, activists, and lawyers. They praise the portal created by the State Attorney General’s Office to report illegal ICE activity and in their testimony foresaw the increase in “federal agent encounters with bystanders, protestors and community members that were apparent in Minneapolis in January 2026. They criticize ICE agents’ use of masks, and support legislation to halt this practice, such as the Mandating the End of Lawless Tactics Act (MELT, A.8908 Simone/S.08462 Salazar), as well as support for the New York for All Act, previously cited.

A WARNING FROM A FORMER IMMIGRATION JUDGE ABOUT DUE PROCESS

A former immigration judge offered striking testimony on the state of the nation’s 70 immigration courts on behalf of several former judges. “The United States has benefited from a formal, centralized process in which federal officers determine whether to exclude or deport non-citizens for approximately the last 144 years.”

There are six immigration courts in New York, with two exclusively reserved for the cases of detained immigrants: the Buffalo Federal Detention Facility in Batavia, and the Ulster Immigration Court in Napanoch. The Varick Immigration Court in Manhattan hears a mixed docket of detained and non-detained cases. The remaining courts are in Buffalo and New York City. The immigration courts of this state employ 78 judges.

Immigration courts across the U.S. “have been the subject of long-standing complaints, long delays, poor quality of adjudications, and increasingly, politicization.” Under the guise of addressing these, the administration has instituted a concerning series of changes. First, a larger percentage of non-citizens are subject to detention during the entire pendency of their removal proceedings; and second, fewer are able to appeal adverse immigration court decisions. While decisions may be appealed to the DOJ’s Board of Immigration Appeals and the federal Circuit Courts, the fee of an appeal to the Board was recently raised from \$110 to \$1,010, thereby limiting the most viable check on an immigration court’s reasoning and application of the law for the poorest noncitizens.

A particularly pernicious change in immigration adjudications is the role of U.S. Citizenship and Immigration Services (USCIS), which has been responsible for issuing benefits, from employment authorization, permanent residence to naturalization, but not engaging in law enforcement activities. Following a recent guidance issued in February 2025, USCIS will now be obligated to

place every person whose application for benefits is denied into removal proceedings. No longer will an applicant first be granted the opportunity to correct trivial errors, submit additional evidence to strengthen their cases, or simply refile the application. This was an efficient means, for example, for service providers to address poorly prepared matters filed by unscrupulous non-attorneys who engage in the unlawful practice of law. By placing a greater number of failed applicants in removal proceedings, more attorneys will be needed to litigate in a complicated and adversarial setting, requiring more resources in an area of law where representation for the indigent is already stretched thin.

Additionally, immigration judges have been given instructions on how to adjudicate their cases within short timelines, including complex matters like asylum. Judges have been directed to pretermit cases, effectively denying a person an opportunity to be heard. It was particularly distressing to learn that at least two judges in the New York City immigration court may have been terminated for granting relief from removal at rates higher than average. “The cumulative effect of these actions is to restrict immigration judges’ discretion in handling their caseloads . . . and place a great demand on immigration attorneys to dedicate an increased amount of time to cases.”

The fact that fewer and fewer noncitizens in removal proceedings are eligible for release, even if they are not a danger to the community or a flight risk, is also changing the nature of practice. “This has created a landscape in which, increasingly, the sole means for noncitizens to challenge long-term detention is through federal habeas litigation.” Unfortunately, many non-profit organizations do not have the requisite resources for and experience with federal litigation and must rely on pro bono attorneys from outside their agencies. While training is available from institutions such as the Cardozo Law School Habeas Institute, and the District Court for the S.D.N.Y. recently issued a pro se guide for habeas litigation, the ability to handle such cases remains limited.

THE NEED FOR UNIVERSAL IMMIGRATION REPRESENTATION IN REMOVAL PROCEEDINGS

IOLA and the agencies who testified support expanding access to immigration representation. While the State is currently a leader by funding the New York Family Unity Immigration Representation Project (NYIFUP), which allows several agencies in New York City and two in Upstate New York to operate a public defender style program for immigrants detained by Immigration and Customs Enforcement (ICE), legal representation still remains unavailable for a large and unacceptable number of non-detained indigent noncitizens who appear before the New York City and Buffalo Immigration Courts and who face similarly severe consequences as a result of deportation, including persecution and torture in their native countries.

Moreover, one such NYIFUP provider, the Erie County Bar Association Volunteer Lawyers Project in Buffalo, submitted testimony indicating that their program now faces a number of difficulties they never previously faced while representing immigrants at the federal detention facility in Batavia. These include not having access to the court docket with the names of those who will appear before the immigration court and may need counsel, the need to conduct some hearings

remotely in a small attorney visitation booth, and as mentioned earlier, finding that most detained immigrants are now denied bond and will not be released from custody during the pendency of the process, straining already limited resources and complicating further representation since NYIFUP does not cover representation of immigrants who are not detained.

According to the Vera Institute of Justice, “every person facing deportation deserves to be treated with dignity and to have the chance to understand and defend their rights. In our complex immigration legal system, this requires high-quality legal representation, regardless of income, race, national origin, or history with the criminal justice system.”

The testimony of Rosie Wang, a program manager at the Vera Institute of Justice in New York City, further confirms that not only has there been a surge in the number of immigration related arrests, but as of August 2025, more than 100,000 cases before the immigration court in New York are unrepresented. That is, one in three people face removal proceedings, and their life-changing consequences, without counsel.

The need for more representation must reflect the fact that in 2025 the federal government allocated more funding to ICE allowing for the recruitment of thousands of new agents and to expand its detention capacity. Those with counsel are up to ten and half times more likely to win their removal proceedings than those who are pro se, per the Vera Institute.

The Vera Institute proposes a \$175 million investment in immigration representation through ONA for fiscal year 2027. The current budget of \$64.2 million falls short of what is required to meet the critical situation in which we are. \$85 million would be allocated to sustain and strengthen current providers of legal representation, and \$50 million to launch new programs and efforts. Finally, \$40 million would be used for capacity-building. According to a cited study from the NYC Comptroller’s Office providing statewide access to counsel for all noncitizens in removal proceedings would generate an estimated \$8.4 billion in net benefits for federal, state and local governments.

WESTCHESTER COUNTY’S IMMIGRANT PROTECTION ACT IS A COMMON-SENSE PUBLIC SAFETY MEASURE

Jason Whitehead, Esq. presented testimony on behalf of Westchester County that this county and its community has also been impacted by the current presidential administration. There is fear among immigrants, especially those with no status, who believe they cannot live freely and conduct their daily lives including attending school, going to medical appointments, or even working. He also expressed concern that this community feared reporting crime or going to court to obtain relief such as orders of protection in domestic violence matters. The county has been impacted by the threat of federal funding cuts because of its policy governing county law enforcement and employee conduct when interacting with federal officials enforcing civil immigration law.

The Westchester County Board of Legislators passed the Immigrant Protection Act (IPA) in 2018 to encourage and foster positive relations between county residents and law enforcement and improve public safety, while not impeding the enforcement of federal law. It prohibits county employees from asking about a person's immigration or citizenship status unless this is a requirement for the receipt of public benefits, and punishes intimidation involving threats to call ICE. The IPA prevents authorities from allowing ICE to interview immigrants in county custody without a judicial warrant or the immigrant's consent, and only in the presence of counsel. It also prohibits ICE's access to correctional facilities absent exigent circumstances. Strikingly, Westchester may be among the few counties, if not the only one, to not recognize administrative detainers which allow local authorities to hold a noncitizen for an additional 48 hours after their release date so that ICE may pick them up, recognizing that these detainers are not judicial warrants.

In adopting this legislation, the county turned to statistics in an Illinois study indicating that Latinos are less likely to report crime if they fear the police will inquire about their immigration status. As well, 70% of the undocumented population will not contact local law enforcement when they are victims of a crime. Clearly, this makes the entire community vulnerable and undermines the safety of all its residents. The Immigrant Protection Act helps protect public safety for all Westchester County residents and guarantees that the immigrant residents among them will receive equal treatment under the law.

Westchester County believes that the federal government's pressure on local jurisdictions to enforce federal immigration law may violate the 10th Amendment of the U.S. Constitution and the anti-commandeering doctrine. The 10th Amendment limits federal authority to enumerated powers, and protects state sovereignty and individuals' rights by clarifying that any authority not explicitly granted to the national government remains with the states or citizens. The doctrine prevents the federal government from forcing state governments or officials to implement or enforce federal laws, ensuring states are not conscripted as federal agents to carry out federal regulatory schemes, as seen in cases like *New York v. United States*, 505 U.S. 144 (1992) and *Printz v. United States*, 521 U.S. 898 (1997).

Westchester, unlike other counties, has chosen not to enter into a 287(g) agreement with the federal government. 287(g) refers to the federal Immigration and Nationality Act provision allowing state or local police to act as federal immigration agents under ICE supervision, enabling them to identify, process, and detain immigrants for removal. New York's Attorney General has expressed strong opposition to 287(g) agreements, arguing these actions risk violating New York law and undermining trust, with lawsuits ongoing to challenge these pacts as potentially unlawful under state law.



NEW YORK STATE BAR ASSOCIATION

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COMMITTEE ON CIVIL RIGHTS

March 10, 2026

To: NYSBA's Executive Committee

From: Committee on Civil Rights

RE: Report and Recommendations of the New York State Bar Association's Committee on Immigration Representation, Federal Immigration Enforcement and Access to Justice in New York State Report.

The Committee on Civil Rights has voted to support the report and recommendations of the *New York State Bar Association Committee on Immigration Representation – Federal Immigration Enforcement and Access to Justice in New York State Report*, as it furthers the Committee on Civil Rights mission of promoting and facilitating access to our justice system for all. The committee voted in favor of supporting this report at its February 26, 2026 meeting.



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COMMITTEE ON LEGAL AID

February 26, 2026

To: NYSBA's Executive Committee

From: Committee on Legal Aid

RE: Report and Recommendations of the New York State Bar Association Committee on Immigration Representation, Federal Immigration Enforcement and Access to Justice in New York State Report.

The Committee on Legal Aid has voted to support the report and recommendations of the *New York State Bar Association Committee on Immigration Representation – Federal Immigration Enforcement and Access to Justice in New York State Report*, as it furthers the Committee on Legal Aid's mission of promoting and facilitating access to our justice system for all. The committee voted in favor of supporting this report at its February 26, 2026 meeting.



COMMITTEE ON FAMILIES AND THE LAW

LINDA GEHRON, ESQ.
CHAIR
31 W. 34TH STREET
NEW YORK, NY 10001

March 23, 2026

To: Tracey Miller, Esq.
New York State Bar Association
Ad Hoc Immigration Working Group

Re: Federal Immigration Enforcement and Access to Justice in New York State

Dear Tracey,

I am writing to advise that the NYSBA Committee on Families and the Law has voted to support the Ad Hoc Immigration Working Group's "Federal Immigration Enforcement and Access to Justice in New York State" report and recommendations.

Please receive our best wishes with your presentation before the NYSBA Executive Committee, and let me know if you need anything else from our committee as you proceed.

Sincerely,

Linda Gehron

Linda Gehron
Chair
Committee on Families and the Law

Memorandum in Support of the Ad Hoc Immigration Working Group Report and Recommendations

Acting on behalf of the Health Law Section, the Section's Executive Committee strongly supports the report of the NYSBA Ad Hoc Immigration Working Group (Working Group) "Federal Immigration Enforcement and Access to Justice in New York State." The Executive Committee recognizes the urgent need for legislation and policy in New York State to respond to the rapid changes in federal immigration enforcement and urges the House of Delegates to approve the report and support the recommendations for legislation in this legislative session.

As detailed in the report, the scale and scope of immigration enforcement, expanded detention, expedited removal and the upending of long-standing precedents in immigration law have placed an extraordinary strain on the nonprofit organizations that provide legal services to immigrants. As of August 2025, nearly 340,000 cases were pending before immigration courts in New York State. Enforcement practices that target populations, not individuals, based on ethnic identity, nationality and zip code, without a judicial warrant or probable cause, the hallmarks of due process and guardrails in law enforcement, are eroding the rights of all New Yorkers.

The Executive Committee recognizes the importance of all the recommendations set forth in the report, including those that affect the health care sector. Specifically, the Hospitals Sanctuary Act would restore the protection for hospitals from federal immigration enforcement that has been removed by the current Administration. The Committee agrees with the recommendation by the Working Group that the Hospitals Sanctuary Act be expanded to include protection for other health care providers, schools and places of worship.

Adopted by the Health Law Section Executive Committee on February 26, 2026.



NEW YORK STATE BAR ASSOCIATION

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PRESIDENT'S COMMITTEE ON ACCESS TO JUSTICE

March 9, 2026

To: NYSBA's Executive Committee

From: President's Committee on Access to Justice

RE: Report and Recommendations of the New York State Bar Association Committee on Immigration Representation, Federal Immigration Enforcement and Access to Justice in New York State Report.

The President's Committee on Access to Justice has voted to support the report and recommendations of the *New York State Bar Association Committee on Immigration Representation – Federal Immigration Enforcement and Access to Justice in New York State Report*, as it furthers the President's Committee on Access to Justice's mission of promoting and facilitating access to our justice system for all. The committee voted in favor of supporting this report at its February 11, 2026 meeting.