

# United States Senate

WASHINGTON, DC 20510-3205

May 6, 2021

Dear Chairwoman Shaheen and Ranking Member Moran:

As you begin to craft the Fiscal Year (FY) 2022 U.S. Department of Justice funding bill, we respectfully request that you provide no less than \$200 million for legal services within the Executive Office for Immigration Review (EOIR) to provide legal representation to vulnerable populations including victims of abuse, torture, or violence, or an individual whose income is at or below 200 percent of the poverty line. Funding would also be used to ensure access to counsel for non-citizens who are or have been detained at immigration detention and border facilities.

**There is no right to a government-provided attorney in immigration court.** Individuals who appear in immigration court must pay for an attorney or go without representation – often in a language they do not understand while navigating complex rules and regulations against well-trained U.S. government attorneys. The challenges become even more daunting for children and other vulnerable populations. And yet, [studies consistently show](#) that the rate at which people must navigate their immigration removal proceedings without counsel are astronomical, particularly in detention where in recent years, only 30 percent had legal counsel. Such unfair barriers create serious due process concerns – which is even more compelling when many cases involve potential life or death consequences.

**Ensuring legal representation would dramatically reduce the government’s costs for detention, enforcement operations, and court proceedings.** The U.S. immigration court backlog is quickly nearing 1.3 million cases,<sup>1</sup> and there is an urgent need for enhanced efficiency afforded by attorneys. Legal representation of vulnerable groups prevents waste of judicial time and resources by screening out inapplicable forms of protection and minimizing unneeded court time. Recent studies have also confirmed that non-citizens with representation are far more likely to comply with court appearance requirements. [Studies](#) of over a decade of EOIR data have found that people represented by counsel appear in court over 96 percent of the time, as a lawyer can help them navigate a complex system. Non-citizens who *are* represented by counsel are typically [more prepared to proceed in their legal cases](#), as the most common reasons pro se individuals request continuances [are to seek counsel or to prepare their case](#). Legal counsel can also assist with identifying family or community members to whom an individual could be released. All these factors reduce the time judges spend on each case and contribute to more efficient court processing.

**The impact of court-appointed lawyers will help transform the U.S. immigration court system.** The request for \$200,000,000 would enable EOIR to provide significant improvement in

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<sup>1</sup> TRAC, “Immigration Court Backlog Tool” (through Feb. 2020); [https://trac.syr.edu/phptools/immigration/court\\_backlog/](https://trac.syr.edu/phptools/immigration/court_backlog/).

the availability and quality of existing legal representation programs and enable expansion of pilots to serve other highly vulnerable populations beyond those currently served. We request, as well, that you include the following language in the Committee's FY 2022 report:

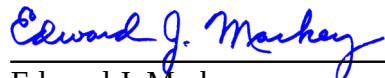
*“Access to Counsel” – The Committee is concerned that the extremely low rate of representation for non-citizens in immigration court proceedings is compromising the fundamental fairness and integrity of the legal process. The recommendation therefore includes no less than \$200,000,000 for EOIR to provide legal representation at government expense for non-citizens in removal proceedings including but not limited to, those who are detained, the disabled, victims of abuse, torture, or violence, or an indigent individual whose income is at or below 200 percent of the poverty line. The Committee recommends that EOIR, in order to facilitate the provision of qualified and independent counsel, ensure that programming is operated by non-profit organizations with experience and expertise in providing legal representation to immigrant communities, and that funding per case be sufficient to assign representation for the duration of the removal case (including appellate matters).*

Thank you for your strong support and leadership to strengthen the provision of counsel for unaccompanied children and for considering our request.

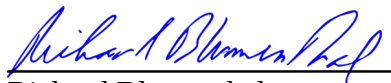
Sincerely,



Kirsten Gillibrand  
United States Senator



Edward J. Markey  
United States Senator



Richard Blumenthal  
United States Senator



Jeffrey A. Merkley  
United States Senator



Kyrsten Sinema  
United States Senator



Cory A. Booker  
United States Senator



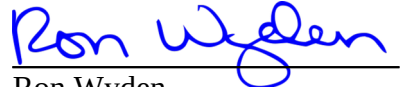
Alex Padilla  
United States Senator



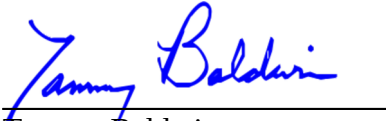
Bernard Sanders  
United States Senator



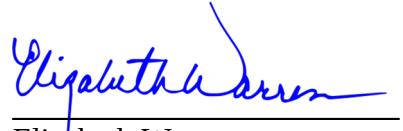
Robert Menendez  
United States Senator



Ron Wyden  
United States Senator



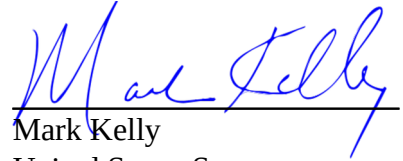
Tammy Baldwin  
United States Senator



Elizabeth Warren  
United States Senator



Amy Klobuchar  
United States Senator



Mark Kelly  
United States Senator



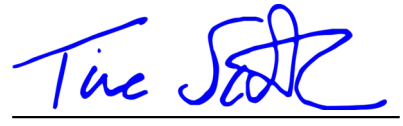
Maria Cantwell  
United States Senator



Thomas R. Carper  
United States Senator



Tammy Duckworth  
United States Senator



Tina Smith  
United States Senator

*Sherrod Brown*

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Sherrod Brown  
United States Senator

*R. Warnock*

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Raphael Warnock  
United States Senator