



Legislation Text

File #: Res 1173-2019, **Version:** *

Res. No. 1173

Resolution in support of the amicus brief submitted by the District of Columbia and the States of California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington, calling on the U.S. Court of Appeals for the D.C. Circuit to maintain the availability of asylum-related protections for individuals and families with a well-founded fear of persecution due to domestic or gang-related violence.

By Council Member Menchaca

Whereas, In 2014, the Board of Immigration Appeals (“BIA”) determined, in *Matter of A-R-C-G-*, that domestic violence survivors may qualify for asylum in the United States (U.S.); and

Whereas, The BIA found that women who experience persecution by their husbands, and are unable to leave their marriage, and do not receive assistance from law enforcement constitute a “particular social group;” and

Whereas, Belonging to a particular social group is one of several factors to be considered when the Executive Office of Immigration Review makes a determination on an asylum claim; and

Whereas, In June 2018, former U.S. Attorney General Sessions overturned a decision to grant asylum in *Matter of A-B-*, arguing that victims of domestic violence do not belong to a particular social group, but are instead victims of “private criminal activity” and thus should not be granted asylum; and

Whereas, This 2018 determination had sweeping implications for all future asylum claims for individuals who have experienced domestic violence and for victims of gang violence; and

Whereas, The U.S. Citizenship and Immigration Services (“USCIS”) published a policy memorandum in July 2018, entitled “Guidance for Processing Reasonable Fear, Credible Fear, Asylum, and Refugee Claims in Accordance with *Matter of A-B-*,” directing near-blanket denials of domestic violence and gang-based

persecution asylum claims, effectively heightening the standards for all pending and future asylum claims; and

Whereas, The Center for Gender and Refugee Studies (“CGRS”) and the American Civil Liberties Union (“ACLU”) filed suit shortly thereafter in *Grace v. Whitaker*, arguing that these policies contradicted historical precedent in asylum case law and undermined the fundamental human rights of women; and

Whereas, In December 2018, the U.S. District Court for the District of Columbia found that there was “no legal basis for an effective categorical ban on domestic violence and gang-related claims,” finding that individuals making domestic or gang violence claims deserve a fair opportunity to apply and be considered for asylum; and

Whereas, The U.S. District Court additionally issued a decision vacating the government’s policies promulgated by the Attorney General in *Matter of A-B-* and subsequent guidance issued by the USCIS regarding credible fear claims relating to domestic violence or gang violence; and

Whereas, The federal government has appealed this decision, and requested a stay of its execution pending appeal, in an effort to continue to apply its asylum policies; and

Whereas, In January 2019, the U.S. District Court for the District of Columbia granted a permanent injunction on those policies while *Grace v. Barr* is litigated; and

Whereas, In August 2019, 20 states and the District of Columbia, including the State of New York, filed a brief as *amicus curiae* calling for the U.S. Court of Appeals for the D.C. Circuit, currently considering *Grace v. Barr*, to affirm the lower court’s determination and maintain the existing standards for the asylum claims of victims of domestic and gang violence; and

Whereas, In 2016, 30 percent of all asylum grantees in the U.S. hailed from Guatemala, El Salvador, and Honduras, where domestic and gang-related violence remain pervasive and laws against such violence often go unenforced; and

Whereas, New York is one of 20 states that together are home to the majority of the U.S.’s asylum grantees, and thus has an interest in ensuring that the asylum system continues to provide relief for individuals

who have been victims of domestic or gang-based violence; and

Whereas, Foreign-born New Yorkers, including asylum grantees, play a vital role in our City's economy, contributing an estimated \$195 billion to the City's Gross Domestic Product ("GDP") in 2017 alone, and paying an estimated \$8 billion in City and State personal income taxes and approximately \$2 billion in City property taxes ever year; and

Whereas, Restricting humanitarian relief on the basis of domestic or gang-violence for asylum applicants is antithetical to the local laws the City enforces to protect residents from such violence, regardless of immigration status; now, therefore, be it

Resolved, That the Council of the City of New York supports the amicus brief submitted by the District of Columbia and the States of California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New York, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, and Washington, calling on the U.S. Court of Appeals for the D.C. Circuit to maintain the availability of asylum-related protections for individuals and families with a well-founded fear of persecution due to domestic or gang-related violence.

LS12782
EK
11.20.19