



Legislation Text

File #: Res 0556-2023, **Version:** B

Res. No. 556-B

Resolution calling on the New York State Legislature to pass and the Governor to sign A.170/S.999, also known as the Access to Representation Act, which establishes the right to legal counsel in immigration court proceedings and provides for the administration thereof.

By Council Member Hudson, the Public Advocate (Mr. Williams) and Council Members Hanif, Abreu, Richardson Jordan, Restler, Ung, Brewer, Louis, Riley, Avilés, De La Rosa, Sanchez, Cabán and Won

Whereas, The Sixth Amendment to the United States Constitution Assistance to Counsel clause provides criminal defendants with the right to counsel even if they are unable to afford an attorney; and

Whereas, Immigrants facing removal proceedings under federal immigration law are not protected by the Sixth Amendment and are not provided a government-paid lawyer in immigration court; and

Whereas, In 2017 the American Bar Association (ABA) called for both a federally funded system of appointed counsel for indigent respondents in removal proceedings as well as for states and localities to provide such counsel until the federal government does so; and

Whereas, In 2019 the New York State Bar Association (NYSBA) approved a resolution supporting the ABA position that there should be a federally funded system of appointed counsel for indigent respondents in removal proceedings, but urging the New York State Legislature to act in the meantime; and

Whereas, Immigrants and their families subject to deportation are responsible for the expense of counsel, locating a non-profit for legal support, or representing themselves even though the government will be represented by a professional attorney; and

Whereas, According to a *Fordham University Law Review* study, immigrants in New York immigration

court without legal representation have a three percent success rate in defending their right to remain in the United States; and

Whereas, A study by the *University of Pennsylvania Law School* revealed immigrants in removal proceedings are over ten times more likely to win their case to remain in the United States when represented by a lawyer; and

Whereas, Commencing with a \$500,000 investment by the New York City Council in 2013, the New York Immigrant Family Unity Project (NYIFUP) provides legal representation to indigent immigrants in removal proceedings in New York City and State; and

Whereas, New York City Council continues to provide immigrants in New York with access to counsel in deportation proceedings by funding various initiatives including NYIFUP, the Immigrant Children Advocates Response Effort (ICARE), the Immigrant Opportunity Initiative (IOI), and others; and

Whereas, According the November 2023 Financial Plan, immigration legal services provided by the Rapid Response Legal Collective are being cut under the Mayor's Program to Eliminate the Gap; and

Whereas, According to Syracuse University's TRAC-Immigration data reports, as of October 2023, over half of the backlog of over 300,000 cases in New York Immigration Courts lack legal representation--nearly 160,000 cases of individuals; and

Whereas, Over 140,000 migrants have arrived in New York City since the summer of 2022 who need access to both immediate and long-term legal services; and

Whereas, A.170, introduced by Assembly Member Catalina Cruz and pending in the New York State Assembly, and companion bill S.999 introduced by Senator Brad Hoylman-Sigal and pending in the New York State Senate, seeks to amend the executive law, in relation to establishing a universal right to legal counsel in

immigration court proceedings; and

Whereas, In addition to establishing a universal right to counsel for indigent New Yorkers who are subject to removal proceedings under federal immigration law, A.170/S.999 establishes consistent funding streams for immigration legal services; and

Whereas, According to Vera Institute of Justice, A.170/S.999 will make New York the first state in the nation to guarantee the right to counsel for immigrants subject to removal under complex immigration law; and

Whereas, A.170/S.999 will codify elements of the New York Immigrant Family Unity Project, which provides legal representation to indigent immigrants in removal proceedings; and

Whereas, A.170/S.999 will expand representation to immigrant New Yorkers not currently covered by the New York Immigrant Family Unity Project; and

Whereas, A.170/S.999 will further establish New York as a defender of immigrant rights and dignity; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Legislature to pass, and the Governor to sign, A.170/S.999, also known as the Access to Representation Act, which establishes the right to legal counsel in immigration court proceedings and provides for the administration thereof.

LS #10743, 5363, 11874

03/13/2023

RLB