



ROCKY MOUNTAIN IMMIGRANT ADVOCACY NETWORK

RMIAN.ORG

Universal Representation in Colorado: Defending Due Process & Upholding Fundamental Fairness

WHAT IS UNIVERSAL REPRESENTATION?

The current immigration court system is unfair and unjust. Immigrants facing deportation do not have the right to a public defender if they cannot afford a lawyer. Yet the government trying to deport them always has counsel. This system does not uphold basic due process and the values of the United States. **According to recent data, only 12% of noncitizens in Colorado attended immigration court with an attorney by their side.** ¹

Universal representation promotes fundamental fairness, due process, and equity. This model advances a public defender system for people facing deportation, where every person is represented by a lawyer regardless of income, race, national origin, or history with the criminal legal system.² **Universal Representation advances equal justice for all, mitigates bias from the distribution of legal services, promotes dignity, and results in fairer outcomes.**

In contrast, a triage model reinforces the notion that some people are worthier of due process and representation than others. This perpetuates the unequal treatment of noncitizens, particularly people of color who are disproportionately prosecuted within the U.S. criminal legal system.³

The public overwhelmingly supports access to counsel.

- ▶ **92% of Coloradans recognize the importance of access to attorneys for all people, including those in immigration court.** ⁴
- ▶ **85% of Coloradans support government-funded attorneys for people in immigration court.** ⁵

WHO BENEFITS FROM UNIVERSAL REPRESENTATION?

Deportation can result in physical exile from home, separation from family, loss of employment, and even violence or death in a person's country of origin. This includes lawful permanent residents; refugees; asylum seekers; survivors of domestic violence, crime, human trafficking, and torture; family units; and unaccompanied minors. As of January 2023, there were 25,623 immigration cases pending before Immigration Courts in Colorado.⁶ **By November 2023, that figure skyrocketed to 57,096 cases, a 123% increase in less than a year.**⁷ **Each one of those individuals is up to ten times more likely to win their immigration cases and remain in the United States if they have an attorney by their side.**⁸

The impact of HB 21-1194, the Immigration Legal Defense Fund. In 2022, RMIAN represented 19 clients in ICE detention through HB 21-1194. The cost of legal defense before the immigration court was just over \$5,250 per case. That same year, 795 people sought nonprofit legal assistance in their immigration cases because they could not afford counsel, meaning that **the fund provided an attorney to only 2.4% of people seeking representation who ICE detained in the State of Colorado.**

In 2023, Mountain Dreamers offered representation to 32 people in nondetained immigration matters through the Immigration Legal Defense Fund. During that same period, 178 people requested legal services, indicating that **only 18% of people in rural areas who sought an attorney received one through the Immigration Legal Defense Fund.** This figure does not fully capture the expansive need.



WHY IS UNIVERSAL REPRESENTATION IMPORTANT?

Immigrants Enrich Our Communities & Benefit the Economy. The State of Colorado is leading the way toward advancing fundamental fairness and dignity to everyone facing deportation.

- ▶ **Immigrants comprise almost 10% of Colorado's population.**⁹
- ▶ **Colorado's immigrants have over \$15 billion in consumer spending power and contribute over \$5 billion in taxes to our state.**¹⁰
- ▶ **Approximately 142,000 Coloradans are living with at least one undocumented family member.**¹¹
- ▶ **In 2018, immigrants accounted for 12% of all self-employed Coloradans, generating \$1 billion in business income.**¹²

WHAT INVESTMENT IS NEEDED TO PROVIDE UNIVERSAL REPRESENTATION?

In Colorado, we believe that all people have a right to human dignity, due process, and fundamental fairness and we must be willing to invest in that future.

In 2021, the Colorado Fiscal Institute estimated that **\$15.2 million would secure an attorney for each person who is in immigration proceedings in Colorado** who would otherwise not be able to afford to hire private counsel and **would result in "savings of \$18.6 million in family income, employer turnover costs, state and local taxes, and overall economic activity."**¹³

Rather than spending resources on immigration enforcement and detention, the government should strengthen our communities, keep families together, and ensure safety from future persecution, torture, and death. Everyone in Colorado deserves a lawyer to ensure equitable and meaningful access to justice.

¹ Vera Institute of Justice, *Fairness to Freedom Act Lobby Day: State Profiles*, "Colorado" at 3 (reporting on new cases filed in Colorado between April 2022-March 2023).

² Vera Institute of Justice, *Support Universal Representation: SAFE Network 101* (Jan. 2020), <https://static1.squarespace.com/static/57f6bd842e69cf55d8158641/t/5e4d709f394d9569c08f1941/1582133407694/SAFE-representation-factsheet.pdf>.

³ Vera Institute of Justice, *Advancing Universal Representation: A Toolkit* at 11 (Dec. 2018), <https://www.vera.org/downloads/pdfdownloads/advancing-universal-representation-toolkit-mod1.pdf>.

⁴ Vera Institute of Justice, *Public Support in Denver and Colorado for Government-Funded Attorneys in Immigration Court*, (Jul. 2020), <https://www.vera.org/downloads/publications/taking-the-pulse-colorado.pdf>.

⁵ *Id.*

⁶ TRAC Immigration, *Historical Immigration Court Backlog* (last updated Jan. 2023), https://trac.syr.edu/phptools/immigration/court_backlog/.

⁷ TRAC Immigration, *Immigration Court Backlog* (last updated Nov. 2023), <https://trac.syr.edu/phptools/immigration/backlog/>.

⁸ Ingrid V. Eagly and Steven Shafer, "A National Study of Access to Counsel in Immigration Court," *University of Pennsylvania Law Review*, 164, no. 1 (2015), 1-91, <https://perma.cc/82F5-WE2D>.

⁹ American Immigration Council, *Immigrants in Colorado 2020*, https://www.americanimmigrationcouncil.org/sites/default/files/research/immigrants_in_colorado.pdf.

¹⁰ Colorado Dep't of Labor and Employment, *Office of New Americans Will Help Immigrant and Refugee Integration & Colorado's Economy* (Jun. 28, 2021), <https://cdle.colorado.gov/press-releases/office-of-new-americans-will-help-immigrant-and-refugee-integration-colorados>.

¹¹ American Immigration Council, *Immigrants in Colorado 2020*, https://www.americanimmigrationcouncil.org/sites/default/files/research/immigrants_in_colorado.pdf.

¹² *Id.*

¹³ Colorado Fiscal Institute, *A Matter of Justice: Cost Savings from Universal Legal Representation for All Colorado Immigration Proceedings* at 11 (Feb. 2021), <https://www.coloradofiscal.org/wp-content/uploads/2021/02/2.12.21-Final-Report-2.pdf>.