

# Ending State Support for Deportation, Detention and Mass Incarceration



## **Ending State Support for Deportation, Detention and Mass Incarceration: Access to Representation Act (S.81/A.01961).**

Unlike in criminal proceedings, where defendants will be given a lawyer if they cannot afford one, immigrants do not have a right to a government-paid attorney in immigration court. Those who cannot afford to hire a private attorney must find a nonprofit able to help or represent themselves. But immigrant New Yorkers face a paucity of affordable legal services, especially outside of New York City. The continued uncertainty around funding for immigration legal service providers has made it hard for organizations to hire and retain staff, and to guarantee clients they will have lawyers for the duration of their cases. Having a lawyer represent someone in deportation proceedings makes an enormous difference. 78% of immigrants with lawyers win their cases, versus 15% who don't have legal help. For immigrants who are detained, only 3% win their cases without a lawyer. Representation also increases the likelihood that people will be released from detention and that they will appear in court.

New York State has the opportunity to be on the cutting edge of creating a right to counsel in immigration proceedings. New York can make sure that no immigrant fails to access the defenses and protections available to them under the law solely for lack of an attorney to make their case. The State should do its part to provide due process, fairness, and access to justice for immigrants facing deportation proceedings. By becoming the first state to enact a right to counsel for immigrants and, in the meantime, by renewing and adding to its initial investment, New York can once again show itself to be a leader in enacting commonsense policies that uplift all New Yorkers.

### **Recommendation:**

**Pass the first-in-the-nation Access to Representation Act to ensure a right to counsel for all immigrants facing deportation in New York (S.81/A.01961)** and guarantee that no one must defend themselves against a trained government lawyer alone to protect themselves and their families from deportation. The Access to Representation Act will mandate that:

- The state appoint a lawyer to anyone in New York who has a case before an immigration judge or who has a basis to appeal or request to reopen an old deportation order, and meets income requirements.
- Stable funding streams for immigration legal services, easing uncertainty on both the legal representatives and their clients.