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ADMINISTRATIVE AND RESEARCH OFFICE
BUDGET, PROGRAM PLANNING AND
MANAGEMENT DIVISION
FINANCIAL ADMINISTRATION DIVISION
OFFICE OF FEDERAL AWARDS MANAGEMENT (OFAM)

WRITTEN ONLY
TESTIMONY BY CRAIG K. HIRAI
DIRECTOR, DEPARTMENT OF BUDGET AND FINANCE
TO THE HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS
ON
HOUSE BILL NO. 1759

February 3, 2022
2:00 p.m.
Room 325 and Videoconference

RELATING TO LEGAL SERVICES FOR LOW-INCOME IMMIGRANTS

The Department of Budget and Finance (B&F) offers comments on this bill.

House Bill No. 1759 makes an unspecified general fund appropriation in FY 23 to the Judiciary to contract with non-profit organizations to provide legal services to low-income immigrants in immigration proceedings.

B&F notes that the federal Coronavirus Response and Relief Supplemental Appropriations Act requires that states receiving Elementary and Secondary School Emergency Relief (ESSER) II funds and Governor's Emergency Education Relief II funds must maintain state support for:

- Elementary and secondary education in FY 22 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

Further, the federal American Rescue Plan (ARP) Act requires that states receiving ARP ESSER funds must maintain state support for:

- Elementary and secondary education in FY 22 and FY 23 at least at the proportional level of the state's support for elementary and secondary education relative to the state's overall spending, averaged over FYs 17, 18 and 19; and
- Higher education in FY 22 and FY 23 at least at the proportional level of the state's support for higher education relative to the state's overall spending, averaged over FYs 17, 18 and 19.

The U.S. Department of Education has issued rules governing how these maintenance of effort (MOE) requirements are to be administered. B&F will be working with the money committees of the Legislature to ensure that the State of Hawai'i complies with these ESSER MOE requirements.

Thank you for your consideration of our comments.

STATE OF HAWAII
OFFICE OF THE PUBLIC DEFENDER

**Testimony of the Office of the Public Defender,
State of Hawai'i to the House Committee on
Judiciary & Hawaiian Affairs**

February 3, 2022

H.B. No. 1759: RELATING TO LEGAL SERVICES FOR LOW-INCOME
IMMIGRANTS.

Chair Nakashima, Vice Chair Matayoshi, and Members of the Committee:

The Office of the Public Defender strongly supports H.B. 1759 which appropriates funds to the Judiciary to contract with non-profit organizations to provide legal counsel and assistance to low-income immigrants. For these reasons, we applaud and support H.B. No. 1759 as a promising first step toward protecting a marginalized and vulnerable segment of Hawai'i's communities.

In 2010, the United States Supreme Court decided *Padilla v. Commonwealth of Kentucky*, 559 U.S. 356 (2010), which significantly expanded the ethical duties and responsibilities of criminal defense counsel representing non-citizen clients. *Padilla* held that defense counsel is responsible for advising non-citizen clients of the potential effects of a criminal conviction on their immigration status. It did not take long for criminal defense attorneys to realize that the area of immigration law was complex, extremely nuanced, and, at times, unpredictable. Put another way, it became apparent that missteps by defense counsel in criminal court could result in dreadful, and often-times irreversible, consequences in immigration court. Because our attorneys' expertise is in criminal law and procedure, we would often have to advise our indigent, non-citizen clients to seek more expert advice from an attorney who specializes in immigration law, knowing full well that our clients would not have the means or resources to privately retain an immigration lawyer.

With this measure, these indigent, non-citizen individuals might receive the proper and professional advice and assistance from an immigration specialist. As *Gideon v. Wainwright*, 372 U.S. 335 (1963), created the Office of the Public Defender and required states to provide counsel for criminal defendants who could not afford to hire their own attorney, we are hopeful that this small step will

ultimately lead to indigent, non-citizen individuals enjoying the same right to legal counsel in immigration matters.

We thank you for the opportunity to comment on H.B. No. 1759.

DAVID Y. IGE
GOVERNOR

JOSH GREEN
LIEUTENANT GOVERNOR



ANNE E. PERREIRA-EUSTAQUIO
DIRECTOR

JOANN A. VIDINHAR
DEPUTY DIRECTOR

JOVANIE DOMINGO DELA CRUZ
EXECUTIVE DIRECTOR

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IN REPLY, REFER TO:
OCS 22.1023

February 1, 2022

To: The Honorable Mark Nakashima, Chair,
The Honorable Scot Z. Matayoshi, Vice Chair, and
Members of the House Committee on Judiciary and Hawaiian Affairs

Date: Thursday, February 3, 2022
Time: 2:00 p.m.
Place: Conference Room 325 & videoconference

From: Jovanie Domingo Dela Cruz, Executive Director
DLIR – Office of Community Services

Re: H.B. 1759 – RELATING TO LEGAL SERVICES FOR LOW-INCOME IMMIGRANTS

I. OVERVIEW OF PROPOSED LEGISLATION

H.B. 1759 would appropriate an unspecified sum to the Judiciary for FY 2022-2023 “to contract with non-profit organizations to provide legal counsel and assistance to low-income immigrants in immigration proceedings, including deportation defense and asylum, and for any other immigration legal issues.”

II. CURRENT LAW

OCS is not aware of any current Hawaii law that specifically provides appropriations for immigration-related legal services for low-income persons. OCS understands that, currently, such services are provided entirely by non-profit entities using charitable funding for low-income immigrants.

OCS is aware of immigration-law services being provided by the Legal Aid Society of Hawaii, which has absorbed the previously independent Hawaii Immigrant Justice Center. In addition, The Legal Clinic provides a broad range of immigration-law related services in Honolulu, including asylum cases. The UH Richardson School of Law has a Refugee & Immigration Law Clinic. Pacific Gateway Center in Honolulu, and Catholic Charities on both Oahu and Hawaii Island, also provide legal services in immigration-related cases.

We should note that “legal services” includes such matters as filling out forms, applications for naturalization and citizenship, adjustment of immigration status, obtaining employment authorizations and other visas, petitions for immigrant relatives, services under the Violence Against Women Act, as well as representation in Immigration Court.

III. COMMENTS ON THE PRESENT BILL

The Office of Community Services was created by the Legislature by Act 305, SLH 1985, codified as Chapter 371K, Hawai‘i Revised Statutes. The mission of OCS is to eliminate the causes and conditions of poverty for economically disadvantaged persons, immigrants, and refugees in the State of Hawaii, by facilitating and enhancing the development, delivery, and coordination of effective programs for these persons and communities to enable them to achieve and maintain greater economic self-sufficiency and integration into Hawaii’s society.

OCS is pleased to support this bill, which would assist one of OCS’s core constituencies, namely immigrants. We believe that the purpose is sufficiently broad, allowing contractors to assist clients regarding “any . . . immigration legal issues.” While this bill does not propose any role for OCS, OCS stands ready to assist if called upon.

Thank you very much for the opportunity to testify on this valuable measure.

HB-1759

Submitted on: 2/1/2022 9:35:35 AM

Testimony for JHA on 2/3/2022 2:00:00 PM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|---------------------------------|---------------------------|-----------------------------------|
| Joanne Hoe | Volunteer Legal Services Hawaii | Support | No |

Comments:

I am testifying in strong support of this bill.

The bill provides needed funding to organizations providing civil legal services to Hawaii's low and moderate income residents. Volunteer Legal Services Hawaii is one such organization. We assist clients at no charge with matters including family law, guardianships, landlord-tenant disputes, veteran's benefits, trusts, wills, and other estate planning, bankruptcy, and collections matters. We also assist clients through the RACS program, which allows individuals with "license stoppers" to engage in community service (rather than paying fines) in order to recover their licenses.

Without our assistance, many residents would be forced to navigate these sometimes-complex legal issues without an attorney. This leaves these residents in limbo, unable to resolve matters that would assist them in securing housing, employment, or benefits to which they are legally entitled. The COVID-19 pandemic has placed many families on the edge and with little buffer in the event of hardship. The services of legal providers such as Volunteer Legal Services Hawaii have never been more important.

I am also happy to report that, during the pandemic, Volunteer Legal Services Hawaii has increased its offerings to clients, and has expanded remote and online services. We hope to continue these services with the legislature's financial support.

Hawaii's justice system is only effective when all residents -- and not merely the wealthy -- have meaningful access to it. Organizations such as those that would receive funding through this bill help to ensure this access.

Thank you,

Testimony in support of HB 1759
submitted by: Amy Agbayani, co-chair
Filipina Advocacy Network (FAN)

I am representing, Filipina Advocacy Network (FAN) in strong support of HB 1759. FAN advocates for equity, non-discrimination, diversity, and inclusion of Filipinos in our multicultural state. We appreciate the Filipino House caucus for including his bill in their package. HB 1759 provides needed legal resources to the immigrant community to protect their rights, support their families and contribute to our community.

We support HB 1759 which provides funding to the Judiciary to contract with non profit agencies to provide legal services for low-income immigrants. FAN is very concerned that immigrants, including members of the Filipino community who are recent immigrants, will face even more barriers to equal and full participation and fair treatment. Immigrants, particularly those who may have visa issues are vulnerable because of their status, low-income, lack of English ability, unfamiliarity with community resources and the legal system. These vulnerable immigrants have none or very limited access to legal assistance and many are unaware of their rights and responsibilities.

In 1906 fifteen men left the Philippines and came to Hawai'i to work on the plantations. Since then thousands of Filipinos, their children and grandchildren have become citizens and residents of the state. Filipinos (26% alone and mixed) are now the second largest ethnic group in the state (after White/Caucasians). Since the 1965 major amendments to the US Immigration law, Filipinos continue to be the largest immigrant group arriving in the state annually. One estimate is that 40% of the undocumented people in our state are from the Philippines. Many are in mixed status

households (a spouse or a child may be a US citizen or legal resident), most are Catholic and some are Muslims. They are our neighbors, colleagues, students, workers, caregivers and taxpayers.

Immigrants (both documented and undocumented) are “crucial” to the welfare of our nation and our state. Data shows that immigrants in general make major contributions to our state but those dealing with immigrant status issues cannot fully participate, many are threatened with family separation, many do not know their legal rights or ways to regularize their status. Changes in policy and practice at the national level will increase problems and opportunities for Hawai'i immigrants and their families.

Please support HB 1759 as funding for legal services for low income immigrants, including deportation and asylum cases fills a critical need. Access to legal counsel for immigrants in immigration proceedings is necessary to assure immigrants have a fair hearing and able to access their legal rights and responsibilities. This assistance will benefit not only these individual immigrants but their families and our community.

We want to take this opportunity to express our appreciation to your committee for your past support for access to legal services to low income immigrant communities in our state.

HB-1759

Submitted on: 2/2/2022 8:05:06 AM

Testimony for JHA on 2/3/2022 2:00:00 PM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|--------------------------------------|---------------------------|-----------------------------------|
| Joseph E Cardoza | Hawai`i Access to Justice Commission | Support | No |

Comments:

Chair: Hon. Mark M. Nakashima, Chair

Vice Chair: Hon. Scot Z. Matayoshi Vice Chair

Committee: House Committee on Judiciary & Hawaiian Affairs

Testimony of: Joseph E. Cardoza, Chair

Organization: Hawai`i Access To Justice Commission

Hearing Date: Thursday, February 3, 2022

Hearing Time: 2:00 p.m.

Place: Via Videoconference

Conference Room 325

Hawai`i State Capitol

415 South Beretania Street

Honolulu, Hawai`i

House Bill: HB No. 1759

Position: Support of HB1759 Relating to Legal Services for Low-Income Immigrants

Dear Chair Nakashima and Members of the House Committee on Judiciary & Hawaiian Affairs:

The Hawai'i Access to Justice Commission strongly supports House Bill 1759, which would provide an appropriation through the Judiciary for the purchase of legal services for low-income immigrants.

Hawai'i has many immigrants that make up an important part of the social and economic fabric of our community. Hawai'i has enjoyed a strong and proud relationship with our immigrant community. Certain non-profit organizations provide specialized critical and complex legal services to low-income immigrants who must navigate the immigration process, but cannot afford a lawyer. The inability to access essential legal services can lead to serious consequences for low-income immigrants who are not familiar with the challenging immigration process. The ability to provide these legal services is of benefit to our immigrants, their families, and the community. Unfortunately, there are immigrants who cannot be served because of the financial constraints these organizations face. The Hawai'i Access to Justice Commission appreciates the support the Legislature has provided in the past, and is hopeful that our low-income immigrants will have access to essential immigrant legal services in the future.

The Commission appreciates the Committee bringing this legislation forward and for the opportunity to present this written testimony.

I do not plan to testify during the videoconference hearing on this Bill.



*An Affiliate of
National Justice
for Our Neighbors*

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February 2, 2022

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. Mark M. Nakashima, Chair

Rep. Scot Z. Matayoshi, Vice Chair

Hearing Date: February 3, 2022, 2:00 pm

Via Videoconference; Conference Room 325

**Testimony in Support of House Bill 1759
Relating to Legal Services for Low-Income Immigrants**

Chair Nakashima, Vice-Chair Matayoshi, and Members of the Committee:

The Legal Clinic (“TLC”) submits this testimony in support of HB 1759, which would appropriate funds to the judiciary to contract with non-profit organizations to provide legal counsel and assistance to low-income immigrants.

TLC provides legal and related services to Hawai'i's low- and moderate-income immigrant community. We are a relatively new non-profit, having hired our first attorney in late 2019. However, soon after opening our doors, we were overwhelmed with clients, serving about 75 clients, some with multiple matters, in the first six months. The demand has continued, and we have had to postpone and even stop taking new clients for periods of time. We understand that the Legal Aid Society of Hawai'i's immigration unit and other community-based service organizations face similar demands for immigration related legal services.

It is not surprising that there is such a high demand for these services. According to the 2020 Census, immigrants (those born outside the United States) make up 19.3% of our population (273,012 of our residents). This is compared to 13.7% of the U.S. population. Moreover, of our foreign-born population, over 41% (112,050) have not naturalized and become U.S. citizens. According to a study by the University of Southern California a few years ago, Hawai'i was fourth lowest among the states in the likelihood of its non-citizens naturalizing. Without the rights of citizenship, such as the right to vote, a significant portion of this population faces the anxieties created by the uncertainties of our political situation, including the possibility of deportation even after years of contributing to our society.

A potentially more vulnerable portion of Hawai'i's immigrant community consists of those who are out-of-status (“undocumented”). These include residents who are seeking asylum, who have overstayed their visas, and who were brought to the United States as children (Deferred Action for Childhood Arrivals, or “DACA” recipients). While it is difficult accurately to determine the number of undocumented residents, estimates range between 41,000 and 45,000. Of these, as of 2017, Hawai'i had an estimated 600 DACA recipients and as many as 3,600 residents eligible to apply for DACA status.

Another migrant community in need of legal services are the residents from the states comprising the Compact of Free Association (“COFA”) – the Federated States of Micronesia, the Republic of the Marshall Islands and Palau. These residents are entitled to migrate to the U.S. under the Compact, which has its origins in the United States’ use of these countries for nuclear testing and other military purposes. It is estimated that there are approximately 18,500 COFA residents in Hawai‘i, and that they make up the fastest growing portion of our migrant community. The difficulties faced by this rapidly growing community are likely to increase with the not-too-distant expiration of the Compact.

The Covid-19 pandemic has hit the low-income immigrant community particularly hard. Our foreign-born residents are disproportionately impacted by the loss of jobs, lower rates of health care coverage, higher rates of Covid-19 infection, and less access to unemployment insurance and other public benefits due to language barriers and unfamiliarity with the system.

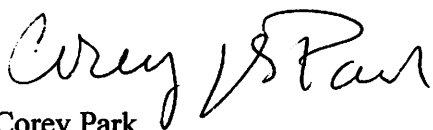
Despite the pressing need for immigration legal services for these growing communities, the available services in Hawai‘i are significantly limited. The Legal Aid Society of Hawai‘i also has a small legal staff which serves the immigrant community but, like TLC, we understand, is overburdened. The University of Hawai‘i law school’s Refugee and Immigration Law Clinic also represents a number of immigrants, but its capacity is governed by its primary mission to educate its students.

The lack of legal services leaves many immigrants without representation, which severely affects their ability to obtain relief. For instance, nationwide, according to the American Immigration Council, immigrants with legal representation who petition for legal status are five times more likely to obtain relief from deportation than those without counsel. The Council’s 2017 national study showed that only 37 percent of all respondents and only 14 percent of detained respondents in federal immigration hearings had counsel.

While the need for immigration legal services has sharply increased, TLC and other immigration service providers face greater hurdles in fund raising. With all the competing needs, governmental funding and foundation giving are threatened. Private individual giving is increasingly difficult, with in-person fundraising events curtailed.

At a time like this, legal service providers need increased support. We urge you to pass HB 1759 out of committee to help the most vulnerable in our society gain access to justice and move us to a more equitable state for all.

Thank you.



Corey Park
President, Board of Directors
The Legal Clinic



PACIFIC GATEWAY CENTER

Testimony in SUPPORT of HB1759, RELATING TO LEGAL SERVICES FOR LOW-INCOME IMMIGRANTS

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. Mark M. Nakashima, Chair

Rep. Scot Z. Matayoshi, Vice Chair

Hearing Date: 2/3/2022

Chair Nakashima and Vice-Chair Matayoshi,

Pacific Gateway Center writes to SUPPORT HB 1759, which appropriates funds to the judiciary to contract with non-profit organizations to provide legal counsel and assistance to low-income immigrants, including representation in asylum and other Immigration Court cases.

For many immigrants, the steps to handling immigrant issues such as legal pathways to citizenship, family reunification, adjustment of status to legal permanent residence, among many others, are complicated, as the law is extremely complex. It is well-documented that immigrants who have legal counsel and assistance in immigration proceedings are more successful at every step.

Pacific Gateway Center has first-hand knowledge and experience with their immigration needs as a recognized agency of the Department of Justice with an accredited representative on staff. This allows our organization to provide legal immigration services without an attorney on staff to the indigent population. We provide these services at very nominal fees or at no cost and will not turn anyone away for inability to pay. Immigrants come to PGC needing legal services filled with angst, uncertainty, and bewildered. There are a myriad of applications to the United States Citizenship and Immigration Services (USCIS), most around 15-20 pages, all in English, and the questions are difficult to comprehend even in English. Submissions must include checklists of evidence. Therefore, for the limited-English proficient, it is a grueling experience without legal support. Our clients include veterans, victims of domestic violence, refugees, asylum seekers, and the homeless (on the neighbor islands as well).

For the State of Hawaii, there are only 3 accredited representatives from two non-profit organizations who provide this service; that is Catholic Charities has 2 (with one on the Big Island, one on O'ahu) and one employed at Pacific Gateway Center. As 1 out of 5 persons living in Hawaii are foreign-born, this statistic signifies the magnitude of the need.

Pacific Gateway Center has been successful in helping clients acquire citizenship, reunite families, secure asylum, obtain green cards, replace green cards and other important documents. It is very difficult for most immigrants to afford immigrant attorney fees.

Immigrants are an extremely important to Hawai'i, contributing to our economy and our communities. Please note:

- 18% of the entire population of the State of Hawai'i. (2021 NAE report)

- In Hawai`i, immigrants are 20.8% of essential workers, including 22.7% of healthcare workers.
 - Within the healthcare industry, immigrants accounted for 47.1% of Nursing Assistants, 23.4% of Registered Nurses, and 20.1% of Physicians.
 - Within other essential industries, immigrants accounted for 68.1% of Housekeeping Cleaners (ensuring our businesses are safe, disinfected, and accessible), and 50.2% of Chefs/Head Cooks.
- 30,000 U.S. citizens in Hawaii who live with at least one family member who is undocumented ([AIC Report](#)). Hawai`i has 41,000 undocumented individuals; 4,200 DACA-eligible individuals (2021 NAE report)]
- 24% of Hawaii's entrepreneurs are immigrants. Pacific Gateway Center is currently working with 36 immigrant family farms.

This bill fills a necessary gap in services to the immigrant members of our community. Access to justice should not depend on the ability to pay or citizenship status. I fully SUPPORT HB 1759.

Thank you for your support and consideration,



En Young
Executive Director

HB-1759

Submitted on: 2/2/2022 1:10:33 PM

Testimony for JHA on 2/3/2022 2:00:00 PM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|-----------------------------------|---------------------------|-----------------------------------|
| Liza Ryan Gill | HI Coalition for Immigrant Rights | Support | Yes |

Comments:

Testimony in SUPPORT of HB1759, RELATING TO LEGAL SERVICES FOR LOW-INCOME IMMIGRANTS

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. Mark M. Nakashima, Chair

Rep. Scot Z. Matayoshi, Vice Chair

Hearing Date: 2/3/2022

Chair Nakashima and Vice-Chair Matayoshi,

I write to SUPPORT HB1759, which appropriates funds to the judiciary to contract with non-profit organizations to provide legal counsel and assistance to low-income immigrants, including representation in asylum and other Immigration Court cases.

Immigrants are an extremely important to Hawai`i, contributing to our economy and our communities. A new report from New American Economy finds that immigrants in Hawai`i contributed \$17.6 billion to the local economy in 2018, with over \$874 million going to state and local taxes.

For many immigrants, the steps to continued residence are complicated, as the law is extremely complex. It is well-documented that immigrants who have legal counsel and assistance in immigration proceedings are more successful at every step.

Many of us can remember the terrible stories of children as young as three and four having to represent themselves in immigration court during the Trump Administration. This has

not changed and it remains a blight on our collective conscience. Immigration law is exceedingly complex and in the last several years its applications have flipped and flopped numerous times. Without a trained immigration attorney plaintiffs are statistically unlikely to win their case, even if their case has merit. It is unethical to have the application of the law depend on whether or not you can access counsel. Many states and municipalities have begun to remedy this miscarriage of justice while we wait for the federal government to get right on the issue. Programs have been started by California, Massachusetts, New York, Illinois and many cities including Boston, Philadelphia and Indianapolis.

With one of the largest percentages of foreign-born individuals of any state, Hawai'i needs to join the ranks of these states and cities in ensuring equality under the law for all persons seeking justice. This bill fills a necessary gap in services to the immigrant members of our community. Access to justice should not depend on the ability to pay or citizenship status. I fully SUPPORT HB 1759.

Thank you for your support and consideration,

Liza Ryan Gill



Medical-Legal Partnership for Children in Hawai'i

A Project of the William S. Richardson School of Law
2515 Dole Street, Honolulu, Hawai'i 96822
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COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. Mark M. Nakashima, Chair

Rep. Scot Z. Matayoshi, Vice Chair

Hearing Date: February 3, 2022

Re: In Support of HB 1759: Appropriating funds to the judiciary to contract with non-profit organizations to provide legal counsel and assistance to low-income immigrants

Dear Committee Members,

The Medical-Legal Partnership in Hawai'i (MLP) represents patients at a community health center with their legal needs. Most of our clients are immigrants from Pacific Islander communities. We strongly support HB 1759.

Since 2009, the MLP has partnered with low-income families in community health and public housing settings to provide free, direct legal services, professional and community education, and systemic advocacy. It was founded with a mission to close wide gaps in legal services in Honolulu. A 2007 Hawai'i Justice Foundation report documented the severe shortage of legal services for low-income people in Hawai'i.¹

The barriers to access to justice are particularly severe in Immigration Court. First, there is a particular scarcity of legal services for immigration proceedings. The Department of Justice has a list of pro bono legal service providers, and none are listed for Hawai'i.² Comparatively, in San Francisco, there are dozens of non-profit legal services agencies, providing a wide array of legal services to vulnerable residents, including no less than 11 groups providing free immigration services for San Francisco Immigration Court alone.³ Second, the effectiveness of immigration attorneys in Immigration Court is proven. In an in-depth study on New York Immigration Courts, 74% of represented, non-detained individuals in Immigration Court had successful outcomes, compared to only 13% of unrepresented, non-detained individuals.⁴

¹ *Achieving Access to Justice for Hawaii's People*, A Report of the Access to Justice Hui (2007), http://25shu2g61cw30sjn46t4k87by.wpengine.netdna-cdn.com/wp-content/uploads/2014/07/Access-to-Justice-Hui-Report-_10-26-07_-Final11.pdf.

² See *List of Pro Bono Legal Service Providers*, U.S. Department of Justice, <https://www.justice.gov/eoir/list-pro-bono-legal-service-providers> (last accessed Feb. 2, 2022). There are pro bono legal service providers in Hawai'i, but because the capacity is limited, they are not put forth in this list.

³ *Id.*

⁴ ACCESSING JUSTICE: THE AVAILABILITY AND ADEQUACY OF COUNSEL IN IMMIGRATION PROCEEDINGS, New York Immigrant Representation Study Report (2011), at 19, <http://www.humanrightsfirst.org/sites/default/files/5-NYIRS-Report-Part-1-Katzmann-Group.pdf>.

The MLP has represented individuals in immigration court, and we have seen this difference firsthand. We represented a mother to U.S. citizen children who was wrongly ordered deported at Immigration Court, where she did not have an attorney, and after we stepped in, we successfully had her deportation order and entire case dismissed. We represented a single mother asylum seeker in her years-long battle for protection. We have also sat in the courtroom waiting with our clients and witnessed countless immigrants without attorneys receive orders of deportation after only fifteen minutes.

Immigration law is complex. We have heard other attorneys and even judges remark on its complexity. For many immigrants, particularly those with limited English proficiency, entering Immigration Court without an attorney is an impossible task.

Our immigrant community members deserve better. Everyday we see the contributions of our immigrant clients, friends, and coworkers. For low-income immigrants in asylum and other Immigration Court proceedings, they deserve the opportunity to continue those contributions. This bill, providing much-needed funding for legal assistance, provides them that opportunity. This bill benefits Hawai`i as a whole.

Thank you for this opportunity to submit testimony supporting HB 1759.

Catherine Chen

Immigration Attorney, Medical-Legal Partnership for Children in Hawai`i

Dina Shek

Legal Director, Medical-Legal Partnership for Children in Hawai`i



www.hicir.org | Instagram @hicir
hicoalitionforimmigrantrights@gmail.com

**Testimony in SUPPORT of HB 1761
RELATING TO IDENTIFICATION CARDS**

Rep. Mark M. Nakashima, Chair

Rep. Scot Z. Matayoshi, Vice Chair

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Hearing Date: 2/3/2022

Room Number: 325

Chair Nakashima and Vice-Chair Matayoshi,

We write to SUPPORT HB 1759, which appropriates funds to the judiciary to contract with non-profit organizations to provide legal counsel and assistance to low-income immigrants, including representation in asylum and other Immigration Court cases.

Immigrants are important to Hawai`i.

Immigrants make up 18% of Hawai`i's population.¹ They make up 20.8% of essential workers, including 22.7% of healthcare workers.² This includes 47.1% of nursing assistants, 68.1% of housekeeping cleaners, and 50.2% of chefs/head cooks—all critical professions during this COVID-19 pandemic.³ In total, in the year 2018, immigrants contributed \$2.4 billion in total taxes paid and almost \$17.6 billion in GDP.⁴

These contributions come from immigrants of all statuses. There are about 41,246 undocumented individuals in Hawai`i as of 2018, and they are estimated to have paid a total of 110.5 million dollars in taxes that year (\$65.7 million in federal taxes paid, and \$44.8 million in Hawai`i state and local taxes paid).⁵ Refugees, which were estimated at 7,929 total in Hawai`i in 2018, contributed over \$58.5 million in federal taxes and almost \$34 million in Hawai`i state and local taxes that year.⁶

¹ New American Economy, *Immigrants and Migrants in Hawai`i* (May 2021), at 3, https://research.newamericaneconomy.org/wp-content/uploads/sites/2/2021/05/NAE_Hawaii_V7_FINAL.pdf.

² New American Economy, *A Snapshot of the Immigrant Population of Hawai`i*, at 3-4, https://research.newamericaneconomy.org/wp-content/uploads/sites/2/2021/08/Hawaii_COVID_Brief-v8.pdf (last accessed Feb. 2, 2022).

³ *Id.* at 13.

⁴ *Id.* at 8.

⁵ *Id.* at 26.

⁶ *Id.* at 28.



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This bill paves the way for even greater contributions. With assistance to resolve their legal obstacles, these individuals would have the opportunity to focus on their careers, communities, and families in expanded ways.

Most importantly, more than just economic statistics, these individuals are also our friends, neighbors, and family members. 30,000 U.S. citizens in Hawai'i who live with at least one family member who is undocumented.⁷ They are irreplaceable members of our community. This bill honors that.

There is an access to justice gap for low-income immigrants in immigration proceedings.

There is a severe shortage of legal service providers for low-income immigrants in immigration proceedings. A 2007 Hawai'i Justice Foundation report documented the scarcity of legal services for low-income people in Hawai'i in general.⁸ This is particularly pronounced in the field of immigration law. When individuals appear in Immigration Court, the Immigration Judge is required to read out the list of free and low-cost immigration service providers that have made themselves available for individuals appearing in court to contact. That list is blank in Hawai'i,⁹ a state of 1.4 million residents.

In San Francisco, by comparison, there no less than 11 groups providing free immigration services for San Francisco Immigration Court alone.¹⁰ Similarly, 87% of non-detained individuals were represented in New York.¹¹

Legal assistance and counsel makes a huge difference in immigration proceedings.

Studies have shown the difference representation makes in immigration court, where immigrants with attorneys are vastly more successful at every stage of the process.¹² In an in-depth study on New York Immigration Courts, 74% of represented, non-detained individuals in Immigration Court had successful outcomes, compared to only 13% of unrepresented, non-detained

⁷ American Immigration Council, *Immigrants in Hawaii*, pg 2, https://www.americanimmigrationcouncil.org/sites/default/files/research/immigrants_in_hawaii.pdf (last accessed Feb. 2, 2022).

⁸ "Achieving Access to Justice for Hawaii's People," A report of the Access to Justice Hui (2007), available at http://25shu2g61cw30sjn46t4k87by.wpengine.netdna-cdn.com/wp-content/uploads/2014/07/Access-to-Justice-Hui-Report-_10-26-07_-_Final11.pdf.

⁹ See Department of Justice list of pro bono legal service providers at <https://www.justice.gov/eoir/list-pro-bono-legal-service-providers>. None are listed for Hawai'i.

¹⁰ *Id.*

¹¹ Ingrid Eagly and Steven Shafer, ACCESS TO COUNSEL IN IMMIGRATION COURT, American Immigration Council (2016), at 8, https://www.americanimmigrationcouncil.org/sites/default/files/research/access_to_counsel_in_immigration_court.pdf.

¹² *Id.* at 2.



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individuals.¹³ The importance of attorneys is even more profound for asylum seekers. For persecution-related relief applications (asylum), 21% of unrepresented non-detained individuals had a successful outcome, while 84% of represented non-detained individuals had successful outcomes.¹⁴ That is a 63% difference in success rate by having legal assistance.

In Hawai‘i, we have seen firsthand the difference made by having legal representation in immigration proceedings. There is the story of the single mother to three U.S. citizen children who went through Immigration Court proceedings alone and was ordered deported. She was finally able to find legal assistance in time to fight the deportation order through an appeal, and her lawyer discovered a critical legal error made by the Immigration Court. As a result, her case was eventually dismissed and she no longer faces deportation. Without legal assistance, this single mother would be separated from her three children today.

This bill fills a necessary gap in services to the immigrant members of our community. Access to justice should not depend on the ability to pay or citizenship status. I fully SUPPORT HB 1759.

Thank you for your support and consideration,

Catherine Chen, Co-chair, Hawai‘i Coalition for Immigrant Rights

Liza Ryan Gill, Co-chair, Hawai‘i Coalition for Immigrant Rights

¹³ ACCESSING JUSTICE: THE AVAILABILITY AND ADEQUACY OF COUNSEL IN IMMIGRATION PROCEEDINGS, New York Immigrant Representation Study Report (2011), at 19, <http://www.humanrightsfirst.org/sites/default/files/5-NYIRS-Report-Part-1-Katzmann-Group.pdf>.

¹⁴ *Id.* at 20.



TESTIMONY IN SUPPORT OF HOUSE BILL 1759

Relating to Legal Services for Low Income Immigrants

HOUSE COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Representative Mark M. Nakashima, Chair

Representative Scot Z. Matayoshi, Vice-Chair

Video Conference Hearing Date: February 3, 2022

Room Number: 325

Chair Nakashima, Vice-Chair Matayoshi, and Members of the Committee,

The Hawai'i Friends of Civil Rights stands in **Strong Support** of House Bill 1759. Immigrants make up 18% of Hawai'i's population and are the backbone of Hawai'i's agricultural workers, nursing assistants, housekeeping cleaners, landscapers, and food preparation workers.¹ And in 2018, immigrants contributed \$17.6 billion to Hawai'i's gross domestic product.² Despite these collective contributions, immigration legal services are often prohibitively expensive for low and moderate income immigrants.

Hawai'i has a critical shortage of low-income legal service providers engaged in meeting the diverse legal needs of the immigrant community which include naturalization, asylum, adjustment of status to secure legal permanent residency, and deportation and DACA defense. Immigration law is complex and not easily navigable without legal expertise. Having an attorney in these matters often makes the difference between whether an individual is allowed to remain safely in the United States or is deported to harm or permanently separated from family and children.

¹ New American Economy, Immigrants and Migrants in Hawai'i: Essential Contributors to the State's Workforce and Economy, May 2021. (Foreign born share of workers in Agriculture 39.3%, in Housekeeping and Cleaning 68.1%, in Nursing Assistance 47.1%, in Food Preparation 39.6%, and 50.2% as Chefs and Head Cooks coupled with 38.9% of Cooks.)

² Id.

Embedded in the communities they serve, effective immigrant legal service providers are actively engaged with and respected by other social service providers and government representatives. They build bridges where some seek to disparage immigrant newcomers, and support multiculturalism and civic engagement. They deserve your support!

Sincerely,

Amy Agbayani, Co-Chair
Pat McManaman, Co-Chair
Barbara Yamashita, Co-Chair

HB-1759

Submitted on: 2/1/2022 12:21:44 PM

Testimony for JHA on 2/3/2022 2:00:00 PM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|--------------|--------------|--------------------|----------------------------|
| John Egan | Individual | Support | No |

Comments:

Testimony in SUPPORT of HB1759, RELATING TO LEGAL SERVICES FOR LOW-INCOME IMMIGRANTS

COMMITTEE ON JUDICIARY & HAWAIIAN AFFAIRS

Rep. Mark M. Nakashima, Chair

Rep. Scot Z. Matayoshi, Vice Chair

Hearing Date: 2/3/2022

Chair Nakashima and Vice-Chair Matayoshi,

I write to SUPPORT HB 1759, which appropriates funds to the judiciary to contract with non-profit organizations to provide legal counsel and assistance to low-income immigrants, including representation in asylum and other Immigration Court cases.

It might surprise people who are generally concerned about legal rights issues to know that Unaccompanied Undocumented Minors regularly appear in Immigration Court proceedings here in the State of Hawaii without an attorney to represent them. They often speak little or no English, and have no more understanding of the complex immigration law system than any other child. Yet they are left to navigate this legal maze where their future lives are in the balance on thier own because the Federal immigration system does not provide funding for legal counsel for children or adults.

We should look to states like California, where the Department of Social Services Immigration Services Bureau funds legal providers such as non-profits, legal clinics and faith-based organizations with funding for its Unaccompanied Undocumented Minors program with over \$2.8 million dollars in FY 2021-2022. I would like to point out that this funding is not for immigrant legal service generally, but specifically for programs to represent undocumented minors.

Obviously our immigrant legal services needs here in Hawaii are not as large as the needs in California, but for individuals who are unable to access legal representation because our legal service provider community is simply to small, too underfunded and too underdeveloped, the

crisis in Hawaii is just as overwhelming. Our legal immigrant services providers could easily double in size and still not meet all of the community's needs.

I urge our representatives to be bold in your generosity in this matter. With over 18% of our Hawaii population foreign born, as compared to 13.5% nationally, we should be leading in the provision of legal services to immigrants, not playing catch-up. Access to justice should not depend on the ability to pay or citizenship status. I fully SUPPORT HB 1759.

Thank you for your support and consideration,

John Robert Egan, Immigration attorney and educator

HB-1759

Submitted on: 2/1/2022 4:30:35 PM

Testimony for JHA on 2/3/2022 2:00:00 PM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|---------------------|---------------------------|-----------------------------------|
| rachel figueroa | Individual | Support | No |

Comments:

I strongly support House Bill 1759, which would provide an appropriation through the Judiciary for the purchase of legal services for low-income immigrants.

As a daughter of an immigrant, I understand the frustration to be understood, and understand the legal process when it's in another language. The inability to afford legal services, adds another layer in the effort to seek legal assistance.

The ability to provide legal services is of benefit to our immigrants, their families, and the community.

With the support of the Legislature, I am hopeful that our low-income immigrants will have access to essential immigrant legal services in the future.

Thank you,

Rachel Figueroa

HB-1759

Submitted on: 2/1/2022 4:33:28 PM

Testimony for JHA on 2/3/2022 2:00:00 PM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|---------------------|---------------------------|-----------------------------------|
| Thaddeus Pham | Individual | Support | No |

Comments:

Aloha, Chair Nakashima and Vice-Chair Matayoshi and JHA Committee Members,

I write to SUPPORT HB 1759, which appropriates funds to the judiciary to contract with non-profit organizations to provide legal counsel and assistance to low-income immigrants, including representation in asylum and other Immigration Court cases.

Immigrants are an extremely important to Hawai`i, contributing to our economy and our communities. As a working professional in Hawai`i, I have benefited from the work my immigrant parents did to make a new home in the US, and I continue to contribute to the economic and social robustness of Hawai`i.

For many immigrants, the steps to continued residence are complicated, as the law is extremely complex. It is well-documented that immigrants who have legal counsel and assistance in immigration proceedings are more successful at every step. As the son of Vietnamese refugees, I can attest to the importance of accessible legal and immigration resources.

This bill fills a necessary gap in services to the immigrant members of our community. Access to justice should not depend on the ability to pay or citizenship status. I fully SUPPORT HB 1759.

With gratitude,

Thaddeus Pham (he/him)

HB-1759

Submitted on: 2/1/2022 5:29:35 PM

Testimony for JHA on 2/3/2022 2:00:00 PM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|---------------------|---------------------------|-----------------------------------|
| Clare M Hanusz | Individual | Support | No |

Comments:

As an attorney who has practiced immigration law in Hawaii for more than 20 years, I write to strongly SUPPORT HB 1759, which appropriates funds to the judiciary to contract with non-profit organizations to provide legal counsel and assistance to low-income immigrants, including representation in asylum and other Immigration Court cases.

Having previously worked in legal services with low-income individuals and now assisting with as many pro bono cases as I can, I know that many people who need low cost or free legal services have few or no options. There is far more need than the limited legal services organizations, and the private bar, can provide. Immigration law is extraordinarily complex, and trying to navigate the system without help often leads to families being separated, and families on the margins having to survive without a primary economic provider if mom or dad ends up getting deported end up deeper into poverty and despair. We can, and should, do better. For these reasons I support HB 1959.

HB-1759

Submitted on: 2/1/2022 8:28:59 PM

Testimony for JHA on 2/3/2022 2:00:00 PM

| Submitted By | Organization | Testifier Position | Remote Testimony Requested |
|---------------------|---------------------|---------------------------|-----------------------------------|
| Taylor Brack | Individual | Support | No |

Comments:

There are many low-income immigrant families living in Hawaii who are in need of legal services. Having access to quality, specialized services can make a significant difference in these resident's lives. The kinds of services that this bill would fund would help to keep families intact and raise their quality of living. I support this bill's passage wholeheartedly.