

The Fair Day in Court for Kids Act (H.R. 4646 / S. 2540)

Last updated April 27, 2016

Every day in immigration courts throughout the country, thousands of children, including some as young as 3- and 4-years-old, are ordered deported without legal representation. The Obama administration has exacerbated the issue by arresting and pursuing deportation proceedings against children without counsel. This is unfair, and no child should face a judge alone. The **Fair Day in Court for Kids Act (H.R. 4646 / S. 2540)** would require the government to appoint counsel to vulnerable immigrants, including unaccompanied children.

THE PROBLEM:

1. **Every day the U.S. government brings children into immigration court where they are forced to defend themselves without counsel. As a result, thousands of children, some as young as 3- and 4-years-old, are ordered deported without legal representation.**
 - The **Department of Justice (“DOJ”)** pursues deportation proceedings against children without counsel: In 2016, the *Washington Post* reported that **Assistant Chief Immigration Judge Jack Weil**, who helps set standards and policies for immigration courts and judges nationwide, stated that “a fair hearing” is possible when children represent themselves in court: “[I’ve taught immigration law literally to three-year-olds and four-year-olds](#). It takes a lot of time....They get it.”¹ In response, **Sen. Patrick Leahy (D-VT)** commented during a March 9th hearing, “I’ve never heard such a [stupid, stupid, stupid thing](#).” Yet, while absurd, Judge Weil’s testimony represents the official DOJ policy with respect to children in deportation proceedings.
 - Starting in January 2016, the **Department of Homeland Security (“DHS”)** began [arresting](#) children for deportation, including many who had [no counsel](#) in their hearings.
 - According to the Transactional Records Access Clearinghouse, **85 percent** of children who did not have immigration counsel were ordered deported.
2. **Children lack the ability to represent themselves in court proceedings.** Many do not speak English and have no understanding of our or any legal system.
3. **Having an attorney is a matter of life and death.** Many of these children are fleeing brutal violence in Central America. El Salvador is currently the most violent nation in the world. In 2015, Honduras was the “Murder Capital of the World.” Guatemala ranks 7th in the world for rates of female homicides.
 - Between January 2014 and October 2015, **83 people** deported from the U.S. to the Northern Triangle were [killed](#) upon return.
 - In nearly [75 percent](#) of cases where children had counsel, the immigration judge decided to **allow the child to remain in the U.S.**, because they had strong claims for asylum and humanitarian protections.

THE SOLUTION:

- ✓ **Pass the “Fair Day in Court for Kids Act” (H.R. 4646 / S. 2540).**
 - **The Fair Day in Court for Kids Act would require the government to appoint counsel to unaccompanied children**, and vulnerable individuals, including those with disabilities, victims of abuse, torture, or violence. The bill would ensure that asylum-seeking children, whose lives are on the line, are not forced to defend themselves against government prosecutors without counsel and returned to the very violence they are fleeing.

Resources:

- [ACLU statement](#) for Senate Judiciary Committee hearing in support of S. 2540 (Feb. 23, 2016)
- [Sign-On Letter](#) to DHS Secretary Johnson and Deputy Secretary Mayorkas re: Due process for Central American families and end to immigration raids (Feb. 18, 2016)
- Media coverage: [Washington Post](#), [New York Times Editorial](#), [New York Times Editorial Blog](#), [Los Angeles Times Op-Ed](#), [Associated Press](#), [Politico](#).

¹ The *Washington Post* was quoting Asst. Chief Immigration Judge Jack Weil’s deposition taken in an ACLU lawsuit, *J.E.F.M. v. Lynch*.