

Fair Day in Court for Kids Act of 2023
Introduced by Senator Mazie K. Hirono (D-HI)

Purpose: Providing legal representation to unaccompanied children in immigration proceedings will protect their legal rights while also improving the efficiency of our immigration system. **Children represented by counsel have a 98% appearance rate in immigration court.**

Need: It is virtually impossible for children to successfully navigate the U.S. immigration system without an attorney. Unrepresented children must stand alone in immigration court to face a judge and an adversarial government attorney seeking their removal from the United States. This can be an insurmountable challenge for many children, who may be as young as three years old, unable to speak English, and unable to understand our complicated legal system. With nearly half of all unaccompanied children representing themselves, the impact is clear: **immigration judges are nearly 100 times less likely to grant relief to unaccompanied children without counsel** compared to those with counsel.

When an unaccompanied child does not have legal representation, proceedings are often drawn out as immigration judges must take time to ensure the unrepresented child understands what's going on and to help them to respond. Lack of representation often necessitates judges' postponement of hearings to give children time to look for counsel. Without an attorney, a child seeking to voluntarily depart the U.S. is also unable to advance their hearing.

Solution: The Fair Day in Court for Kids Act will provide unaccompanied children legal counsel in immigration proceedings. Specifically, the bill:

- Requires that the Department of Health and Human Services (HHS) provide counsel to noncitizen unaccompanied children appearing before the Department of Justice, Department of Homeland Security (DHS) or a State court, unless the child has obtained counsel at their own expense.
- Extends the government's duty to ensure counsel for unaccompanied children to the end of the immigration proceedings, even if the child turns 18 during proceedings.
- Ensures that children are informed of their right to representation within 72 hours and creates infrastructure to identify, recruit, and train pro bono lawyers to provide representation.
- Allows unaccompanied children to reopen their case if HHS fails to provide counsel.
- Requires the government and stakeholders to create guidelines and duties for counsel representing unaccompanied children, largely based on American Bar Association recommendations.
- Clarifies that the government may, at its choosing, also provide counsel to other individuals in immigration court.
- Requires noncitizens, and their attorneys, to receive a complete copy of the noncitizen's immigration file at least 10 days before the removal proceedings.
- Guarantees access to counsel for all noncitizens detained in DHS facilities.
- Requires a report on children's access to counsel.