



UNITED STATES COMMISSION ON CIVIL RIGHTS

1331 Pennsylvania Ave, NW • Suite 1150 • Washington, DC 20425 [www.usccr.gov](http://www.usccr.gov)

February 26, 2016

RE: **Fair Day in Court for Kids Act**

Dear Senator/Representative:

The majority of Commissioners at the U.S. Commission on Civil Rights urges the members of the Senate and House of Representatives to support the Fair Day in Court for Kids Act. On February 11, 2016, Senate Democratic Leader Harry Reid introduced the Fair Day in Court for Kids Act, which would require children in immigration proceedings to be represented by counsel.<sup>1</sup> The bill was cosponsored by Richard Durbin (D-Ill.), Patty Murray (D-Wash.), Patrick Leahy (D-Vt.) and Robert Menendez (D-N.J.).

As Senator Reid explained, the bill comes in response to the humanitarian crisis in Central America.<sup>2</sup> In El Salvador, Honduras and Guatemala, violence has become commonplace. The rule of law has broken down in these countries, where intimidation by gangs, beatings, rape and murder go unpunished. Conditions have gotten so bad that the Peace Corps has stopped sending volunteers to El Salvador.<sup>3</sup> Children from these countries are fleeing to the United States. We have a responsibility to hear their claims for asylum.

The Commission strongly supports the provisions of the Fair Day in Court for Kids Act. As the Commission found in its recent report *With Liberty and Justice for All: The State of Civil Rights at Immigration Detention Facilities* (September 2015), there is currently no requirement that children be represented by counsel in immigration proceedings.<sup>4</sup> This means vulnerable minors

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<sup>1</sup> *Fair Day in Court for Kids Act of 2016* available at <http://www.reid.senate.gov/wp-content/uploads/2016/02/Fair-Day-in-Court-for-Kids-Act.pdf>

<sup>2</sup> *Press Release: Reid Introduces Fair Day In Court Act To Protect Children Seeking Asylum*, February 11, 2016, available at [http://www.reid.senate.gov/press\\_releases/2016-02-11-reid-introduces-fair-day-in-court-act-to-protect-children-seeking-asylum#.Vrz2j2f2Z9A](http://www.reid.senate.gov/press_releases/2016-02-11-reid-introduces-fair-day-in-court-act-to-protect-children-seeking-asylum#.Vrz2j2f2Z9A)

<sup>3</sup> *Peace Corps, Update on El Salvador*, January 11, 2016, available at <http://www.peacecorps.gov/resources/faf/update-el-salvador/>

<sup>4</sup> U.S. Commission on Civil Rights, *With Liberty and Justice for All: The State of Civil Rights at Immigration Detention Facilities*, September 2015, available at [http://www.usccr.gov/pubs/Statutory\\_Enforcement\\_Report2015.pdf](http://www.usccr.gov/pubs/Statutory_Enforcement_Report2015.pdf).



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seeking asylum from dangerous conditions are forced to navigate complex immigration proceedings on their own. Unsurprisingly, few are successful.<sup>5</sup>

The Commission's recommendations included:

- Access to qualified counsel for immigrant detainees of all ages, including children
- Government-provided counsel for indigent detainees
- National implementation of Legal Orientation Programs in detention facilities<sup>6</sup>

The Fair Day in Court for Kids Act would make these recommendations a reality for children seeking asylum on our soil. These children need someone to champion their rights. Many have no family and limited means to retain counsel on their own. A social worker or guardian is not able to provide the assistance needed to fully present their asylum claims. In the criminal context, the Supreme Court has recognized that children cannot be punished to the extent adults can be because of their limited understanding of consequences.<sup>7</sup> Surely we should recognize the same limitations in children in immigration proceedings and provide them with counsel.

Immigration proceedings can have life-or-death consequences. Our American values demand that these proceedings are fairly and fully presented to the Court. Assistance of counsel is vital to ensure that all claims are heard. We urge you to support the Fair Day in Court for Kids Act.

Sincerely,

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<sup>5</sup> It was reported to the Commission that detained immigrants are 6 times more likely to be successful in their removal proceedings if they are represented. *With Liberty and Justice for All*, p. 108. For unrepresented minors, the statistics are even worse: 9 out of 10 are ordered removed if they are not represented. *New Data on Unaccompanied Children in Immigration Court*, TRAC Immigration, Syracuse University, July 15, 2014, available at <http://trac.syr.edu/immigration/reports/359/>.

<sup>6</sup> See *With Liberty and Justice for All*, p. 124-130.

<sup>7</sup> See *Montgomery v. Louisiana*, 577 US \_\_\_ (2016); *Miller v. Alabama*, 567 U.S. \_\_\_, 132 S.Ct. 2455 (2012).



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Handwritten signature of Martin Castro in black ink.

Martin Castro, Chairman

Handwritten signature of David Kladney in blue ink.

David Kladney, Commissioner

Handwritten signature of Patricia Timmons-Goodson in black ink.

Patricia Timmons-Goodson, Vice Chair

Handwritten signature of Karen Narasaki in black ink.

Karen Narasaki, Commissioner

Handwritten signature of Roberta Achtenberg in black ink.

Roberta Achtenberg, Commissioner

Handwritten signature of Michael Yaki in black ink.

Michael Yaki, Commissioner