



Impacts and Benefits of Investing in Immigration Justice: Colorado Immigration Legal Defense Fund



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Executive Summary

Access to legal representation can dramatically change the outcome of an immigration case. In a December 2023 national analysis of legal representation in immigration courts, Colorado ranked last, tying with New Mexico at a shockingly low 14% representation rate.¹ In Colorado, immigrants who do not have legal representation are 60% more likely to receive a removal order than immigrants who do have legal representation. From October 1997 to March 2024, immigration cases closed in Colorado without legal representation resulted in a removal 85% of the time, while cases with representation received a removal only 25% of the time.² Immigrants bear the brunt of the burden that lack of legal representation imposes, but local communities and economies also pay a price.

Investing in legal representation is a necessary tactic to mitigate Colorado's immigration court backlog. From 2019 to 2023, the immigration court backlog in Colorado has more than tripled, from 14,509 backlog cases at the end of fiscal year (FY) 2019 to 46,686 at the end of fiscal year 2023.³ This considerable increase in backlog cases demonstrates a clear need for the state to increase funding for immigration legal defense to work through pending cases more efficiently and justly.

Lack of access to legal representation costs Colorado's state and local economies. The Colorado Fiscal Institute (CFI) estimates that from FY 2021-2023, the collective cost of lost labor income to immigrants detained in the course of their case is about **\$10 million**. Furthermore, CFI estimates that across those three years, Colorado's state and local economies lost out on **over \$15.8 million in economic activity**, and state and local governments missed out on **more than \$894,000 in taxes**. Colorado should allocate more money to the state Immigration Legal Defense Fund to match the growing demand, which will strengthen statewide justice as well as local communities and economies. A \$5 million annual allocation to the Immigration Legal Defense Fund over five years is a scalable investment that would build on the Fund's current success, expand the capacity for representation, and create a pathway for full universal legal representation in the state.

¹ Transactional Records Access Clearinghouse (TRAC). (2024, January).

<https://trac.syr.edu/reports/736/>

² TRAC. (2024, March). Outcomes of Immigration Court Proceedings. Colorado data from FY 1998 to March 2024. Retrieved April 23, 2024. <https://trac.syr.edu/phptools/immigration/closure/>

³ TRAC. (2024, March). Immigration Court Backlog. Selections: Pending Cases > Immigration Cases > Colorado > All. Retrieved April 22, 2024. <https://trac.syr.edu/phptools/immigration/backlog/>

Immigrants Are Essential to Colorado's Economy, Yet Unfairly Excluded From Full Participation

Immigrants are integral members of Colorado communities and play a pivotal role across state and local economies. Approximately 546,000 immigrants call this state home, making up 10% of the total population. These members of our community generate over \$49.1 billion of our state's \$491 billion economic output.⁴ For example, immigrants represent 20% of all Colorado service industry workers.⁵ Immigrants are essential to Colorado's booming tourism economy.

Additionally, Colorado immigrants account for 28% of those employed in construction jobs across the state. These vital workers play a crucial role in building and maintaining our homes, roads, schools, and businesses. Furthermore, immigrants comprise 17% of home healthcare workers in Colorado,⁶ which is part of the Nursing and Residential Care industry that is projected to grow in demand by more than 8% over the next 10 years.⁷

Colorado's diverse economy does not run without immigrant workers. Coloradans benefit from the state's investment towards welcoming and integrating immigrants, which starts with providing legal representation for immigration court cases.

Unfortunately, even though immigrants are integral to the fabric of Colorado communities and economies, they are not treated with fundamental fairness in our legal systems. Each year too many Coloradans face the immigration court system without access to legal counsel. Unlike criminal proceedings, where the U.S. Supreme Court has found a Constitutional right to counsel, immigration issues do not benefit from the same protections. Immigration cases are considered civil matters, meaning people facing these cases only have access to an attorney if they can afford one.

“The impact of a lawyer on a removal case—where the question for the judge is whether someone can stay in the United States with their families and communities—is critical to ensure their case is treated fairly. As a result, they're more likely to be able to return to their jobs, to their kids, and to their loved ones. The economic and social impacts of a functioning immigration system are profound. Not only are we returning workers to our local economy, but we are also ensuring that their families are not negatively impacted by the unfair detention or deportation of their loved ones, which has been shown to have adverse effects on kids' wellbeing and families' stability.”

— Professor Elizabeth Jordan, University of Denver Sturm College of Law

⁴ Colorado Fiscal Institute. (2023, November 14). *Immigrants Power Colorado's Economy* [Video]. YouTube. <https://www.youtube.com/watch?v=5ks8zdwW-7o&t=696s>

⁵ 2021 American Community Survey 5-year data. <https://www.census.gov/data/developers/data-sets/acs-5year/2021.html>

⁶ 2021 American Community Survey 5-year data. <https://www.census.gov/data/developers/data-sets/acs-5year/2021.html>

⁷ Colorado Department of Labor and Employment. (2022). <https://www.colmigateway.com/vosnet/gsipub/documentView.aspx?enc=RtTBcZoEUj+UlkeEY9oiNg==>

Immigrants without legal representation are more likely to be detained and/or permanently removed from the United States. Immigrants who are represented by an attorney are more likely to be returned to their families, jobs, and communities while their cases are pending.

Colorado's State Immigration Legal Defense Fund and the Effects of Representation

"We are migrants and we did not have money for an attorney. It was an amazing opportunity to have an attorney. We would not be able to fight our case without an attorney. We would still be jailed and likely deported by now if we did not have the help. We would be deported back to a country where our lives are at risk."

— Susana, Rocky Mountain Immigrant Advocacy Network (RMIAN) client served through the Immigration Legal Defense Fund

Colorado's Immigration Legal Defense Fund was established in 2021 through [HB21-1194](#), which requires that funds be allocated to non-profit organizations that provide representation and legal counseling for people with low incomes who are subject to immigration court proceedings. Seventy percent of the revenue in the fund must be allocated to provide legal support for immigrants who are detained for deportation proceedings, and the other 30% of the fund's revenue must be granted to organizations that provide legal representation for immigrants who are not detained, with a focus on providing access to counsel in rural areas of Colorado.⁸

For the 2023 calendar year, the Colorado Office of New Americans, which manages the Immigration Legal Defense Fund, awarded two grantees: [The Rocky Mountain Immigrant Advocacy Network](#) (RMIAN), which represents immigrants in removal proceedings who are detained by Immigration and Customs Enforcement (ICE), and [Mountain Dreamers](#), which provides representation for immigrants in rural communities who are not detained.

Access to legal representation can dramatically change the outcome of an immigration case. In Colorado, immigrants who do not have legal representation are 60% more likely to receive a removal order than immigrants who do have legal representation. From October 1997 to March 2024, 85% of immigration cases closed in Colorado for those without legal representation received a removal order, which means the person was deported after fighting their case alone. Across that same period of time, for immigrants who had legal representation, only 25% of closed cases reached a deportation outcome.⁹

Furthermore, immigrants who have legal representation are 60% more likely to be granted relief or likewise have their case terminated or closed without deportation, compared to immigrants who do not have legal representation. 75% of immigration cases that have been closed in Colorado with legal representation were granted relief or similar closure without deportation.

⁸ An exception is provided in the legislation that allows for less than 70% allocation for non-profit organizations that serve detained immigrants only in the case that the need for legal services for detained immigrants are fully funded with less than 70% fund allocation ([HB21-1194](#)).

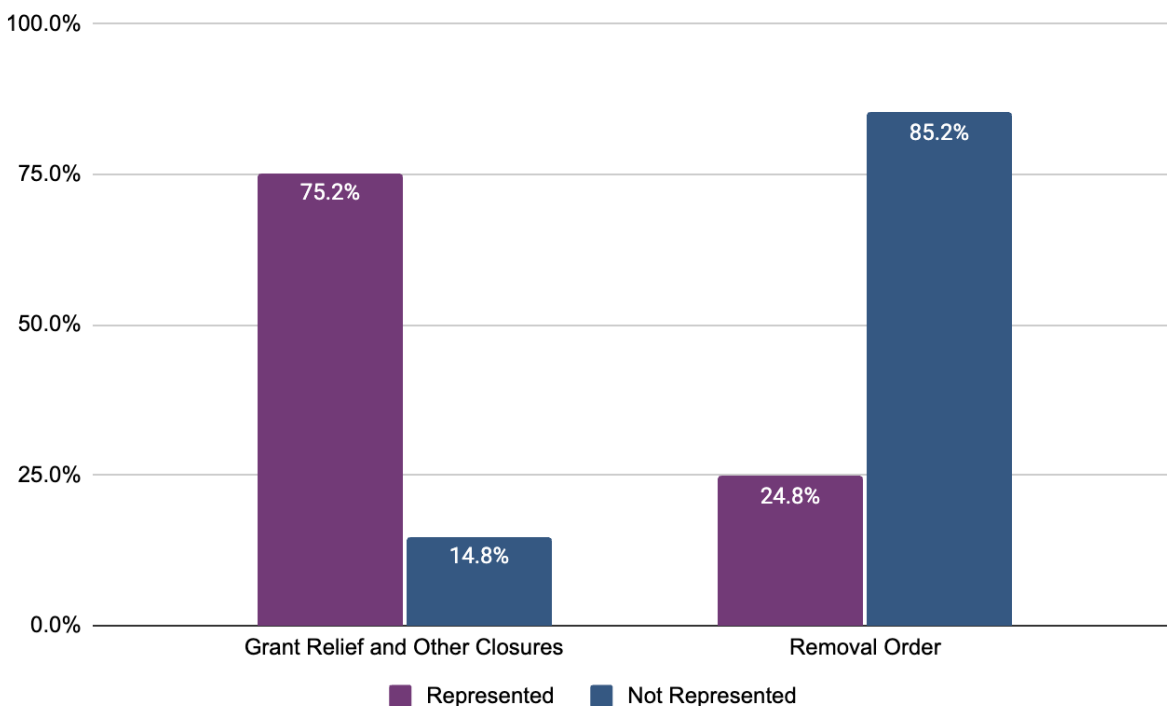
⁹ TRAC. (2024, March). Outcomes of Immigration Court Proceedings. Colorado data from FY 1998 to March 2024. Retrieved April 23, 2024. <https://trac.syr.edu/phptools/immigration/closure/>

However, for immigrants who did not have legal representation, only 15% of closed cases received relief or closure without deportation.¹⁰

"In immigration court, most people are alone when they face a trained attorney appearing on behalf of the government who is arguing for their deportation. The only way to ensure people's rights and fundamental fairness are upheld is to make sure that they have an attorney by their side to help them navigate a tremendously complicated legal process."

— Monique Sherman, RMIAN Attorney

Representation’s Effect on Outcomes in Colorado from FY 1998-2024 ¹¹



Source: TRAC. (2024, March). *Outcomes of Immigration Court Proceedings*. Colorado data from FY 1998 to March 2024. <https://trac.syr.edu/phptools/immigration/closure/>

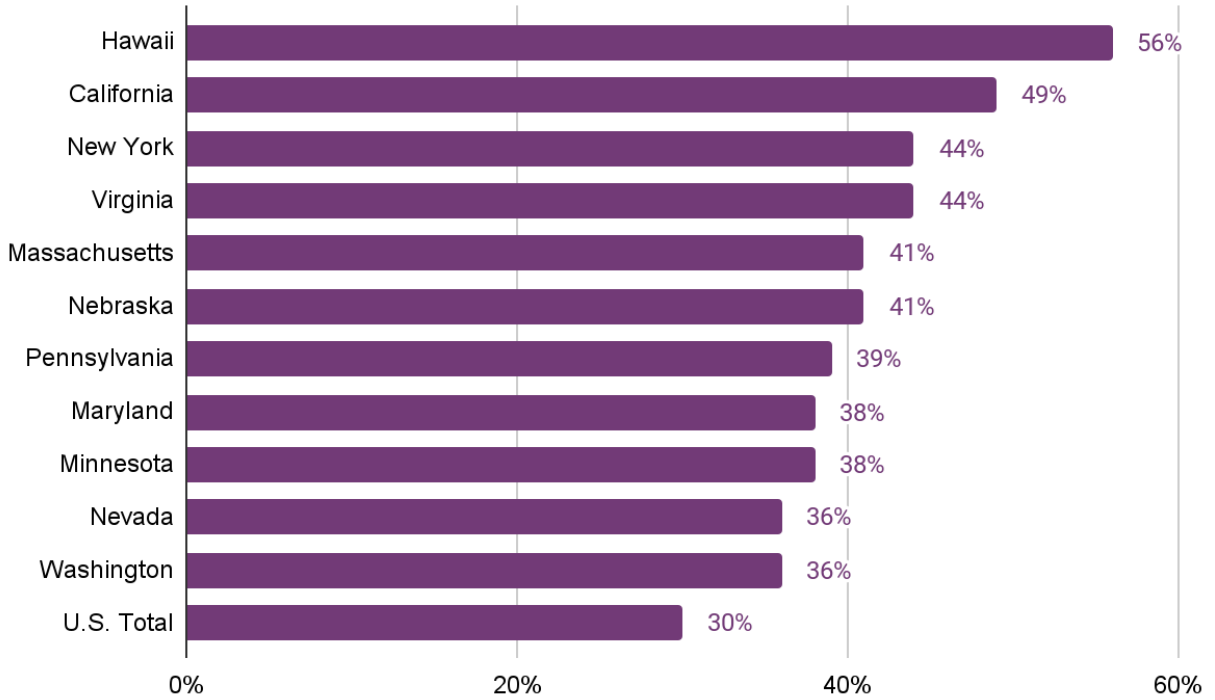
In a December 2023 analysis of representation rates in immigration courts across the United States, Colorado and New Mexico tied for last place, with a representation rate of just 14% (Transactional Records Access Clearinghouse, January 2024). This is evidence that the state must make a growing investment in immigration legal defense to ensure our court systems have the resources needed to treat all people fairly under the law.

¹⁰ TRAC. (2024, March). *Outcomes of Immigration Court Proceedings*. Colorado data from FY 1998 to March 2024. Retrieved April 23, 2024. <https://trac.syr.edu/phptools/immigration/closure/>

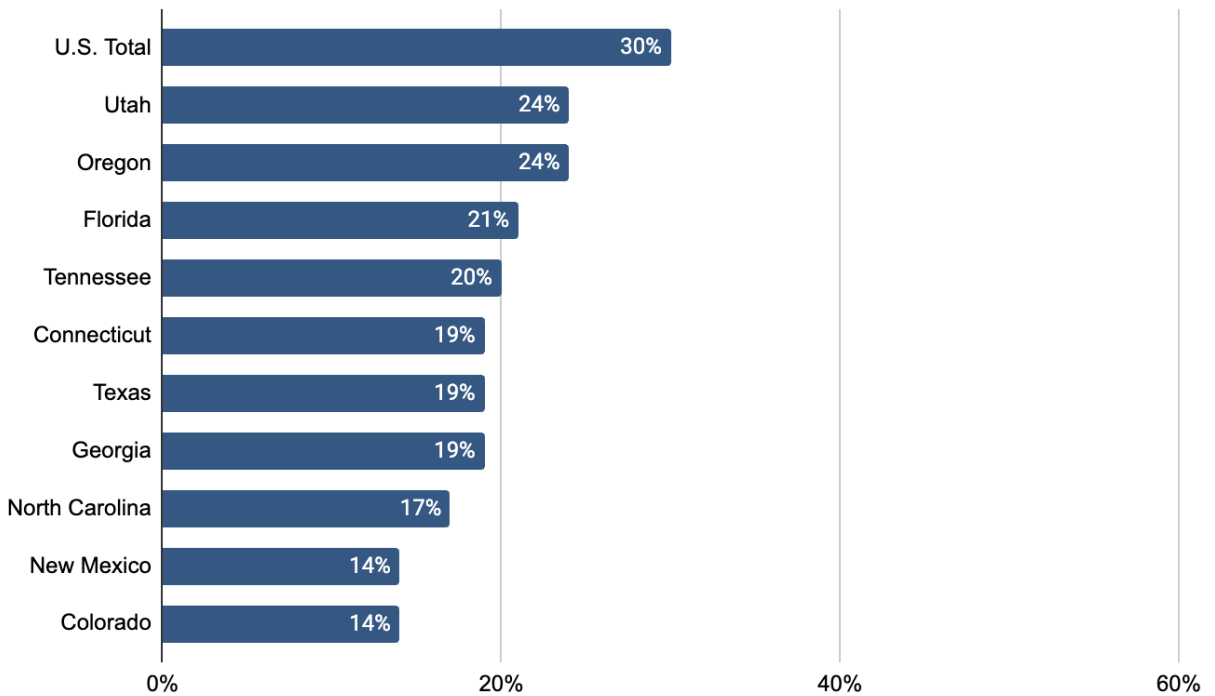
¹¹ Receiving a Removal Order is a deportation outcome. Grant Relief and Other Closures include Terminate Proceedings, NO NTA (Notice to Appear) Filed, Pros. Discretion (Prosecutorial Discretion), and Other Closure, and these are all outcomes in which the immigration case is closed without a deportation order.

Colorado Immigration Courts Have Lowest Representation Rate Nationally, December 2023

Courts with Highest Representation Rates



Courts with Lowest Representation Rates

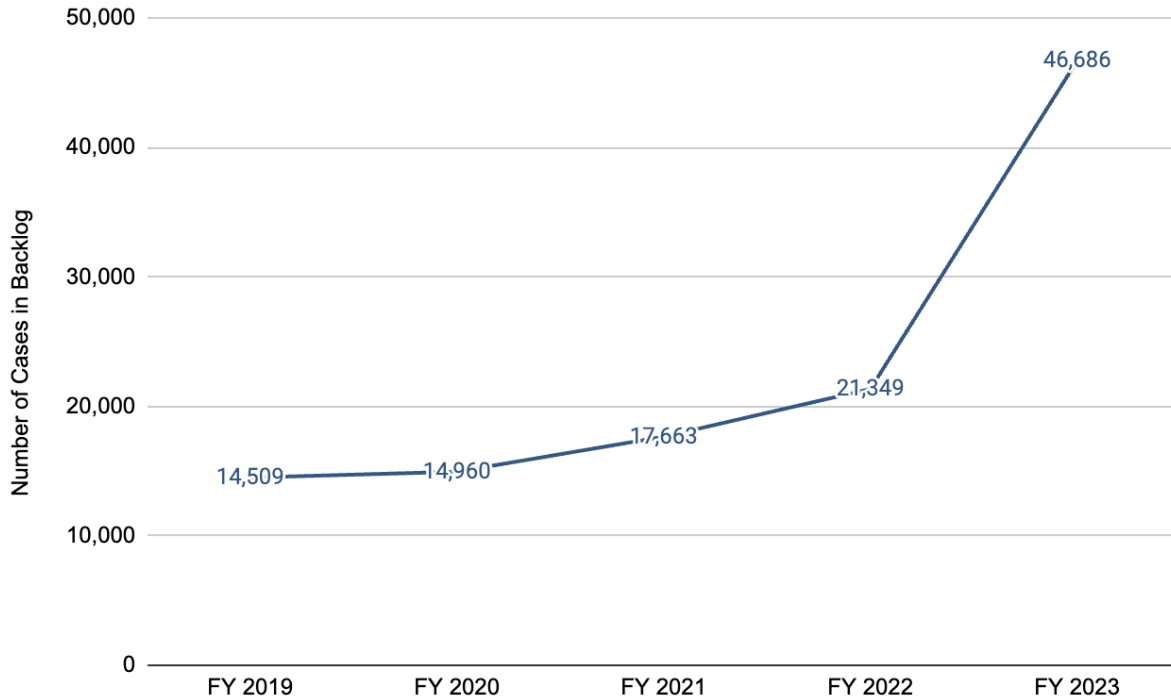


Source: Transactional Records Access Clearinghouse (TRAC). Immigration Courts with Highest and Lowest Representation Rates by State, December 2023. (2024, January). <https://trac.syr.edu/reports/736/>

Rise in Immigration Cases Since 2019

When the Colorado Fiscal Institute (CFI) advocated for the creation and funding level of the Immigration Legal Defense Fund in 2021, our research was based on the latest immigration court data available, which at the time, was up to 2019. From 2019 to 2023, the immigration court backlog in Colorado has more than tripled, from 14,509 backlog cases at the end of fiscal year 2019 to 46,686 at the end of fiscal year 2023.

Colorado Immigration Court Backlog



Source: TRAC. (2024, March). *Immigration Court Backlog*. Selections: Pending Cases > Immigration Cases > Colorado > All. Retrieved April 22, 2024. <https://trac.syr.edu/phptools/immigration/backlog/>

Due to circumstances beyond the control of Colorado, more people are coming to the state seeking a better life for themselves and their families. Congressional inaction has led to a federal immigration court system bent to the breaking point, and the case backlog continues to grow.

This considerable increase in immigration court backlog cases and the crucial difference that representation has on case outcomes demonstrate a clear need for the state to increase funding for immigration legal defense. Investing in legal representation for immigration cases advances justice and supports a more efficient infrastructure for courts to work through the case backlog.

Lack of Representation Results in Lost Wages to Detained Immigrants

Immigrants who are detained in the course of their case proceedings are losing time from their families, communities, and jobs. In a 2018 survey of immigrant families who have been affected by deportation proceedings, 96% of respondents said the deported parent was a breadwinner, and 60% of those families had to rely on outside support for basic needs. Assistance with rent, bills, and food were among the most prevalent necessities that respondents listed. Well over half of those surveyed said churches were the primary source of support, followed by family and community. Only four respondents said they relied on government assistance to help meet their needs.¹²

CFI estimates that each person who is detained by Immigration and Customs Enforcement (ICE) **loses about \$176 of income for every day of detention.** Those who are detained without representation spend an estimated 153 days longer in detention compared to those who have representation. CFI's methodology assumes 5 days worked out of 7 days of detention, which means that out of the 153 days longer in detention that unrepresented immigrants are estimated to spend, 109 of those days are missed work days.

In FY 2023, we estimate that the 405 immigrants who were detained without representation in Colorado **lost out on a combined \$4,258,848 of income.** Across the three years from FY 2021-2023, we estimate that about **\$10 million of income was lost** because immigrants were detained without representation and unable to work.

¹² Colorado Fiscal Institute. (2018). *The Impact of Deportation on Mental Health, Education Outcomes, and Economic Opportunity for Colorado Kids*. <https://www.coloradofiscal.org/wp-content/uploads/2018/06/Immigration-Enforcement-Harms-Children-and-Families-2.pdf>

Methodology of Lost Labor Income Estimate

Unrepresented Coloradans in Detained Cases FY 2023 ¹³	405
Likelihood of Being Granted Bond During Immigration Trial Proceeding (Unrepresented) ¹⁴	22%
Likelihood of Being Granted Bond During Immigration Trial Proceeding (Represented) ¹⁵	77%
Average Additional Length of Stay During Trial (Bond vs. No Bond) ¹⁶	153 days
Lost Labor Income While Detained ¹⁷	\$176/day
Additional Cases That Would Receive Bond with Universal Representation ¹⁸	55% x 405 = 222
Cost of Lost Labor Income While Detained (FY 2023) ¹⁹	222 additional detained cases x \$176 x 109 days = \$4,258,848

Using this methodology, CFI estimates that immigrants who were detained lost **\$2,589,840** of income in FY 2022 and **\$3,088,624** in FY 2021. Across the three years from FY 2021-2023, the collective cost of lost labor income to immigrants detained in the course of their case is about **\$10 million**.

¹³ TRAC. (2024, March). *New Proceedings Filed in Immigration Court*. Selections: Deportation Cases > Colorado > Detained > Not Represented. Retrieved April 11, 2024. 2021 and 2022 Unrepresented Coloradans in Detained Cases data from the same source.

<https://trac.syr.edu/phptools/immigration/ntanew/>

¹⁴ Vera Institute of Justice. (2017, November). *Evaluation of the New York Immigrant Family Unity Project*.

<https://www.vera.org/publications/new-york-immigrant-family-unity-project-evaluation>

¹⁵ Ryo, Emily. (2016). Detained: A Study of Immigration Bond Hearings. *Law & Society Review* 50(1), 117-153.

¹⁶ CFI original analysis of data. U.S. Department of Justice. (2020, January). EOIR Case Data.

<https://fileshare.eoir.justice.gov/FOIA-TRAC-Report.zip>

¹⁷ Daily income assumes 40 hour workweek working 5 days per week and is calculated from an estimate of 2022 Median Earnings of Foreign-Born Full-Time, Year-Round Workers (age 16 and older) in the Current Year Inflation-Adjusted Dollars by U.S. Citizenship Status and Gender. Male and Female Noncitizen annual income was averaged for an annual base income of \$45,860 used here. Migration Policy Institute. (2022). *State Immigration Data Files: Colorado: Income & Poverty*.

<https://www.migrationpolicy.org/data/state-profiles/state/income/CO/1000#>

¹⁸ 55% is the difference between the likelihood of being granted bond with representation (77%) and the likelihood of being granted bond without representation (22%).

¹⁹ Assumes 5 days worked out of 7 days of detention, 153 days * (5/7) = 109.

Lost Labor Income for FY 2022 ²⁰

247 detained and unrepresented deportation cases in Colorado
55% x 247 = 135 additional detained cases ²¹
135 additional cases x \$176 x 109 days = \$2,589,840

Lost Labor Income for FY 2021

293 detained and unrepresented deportation cases in Colorado
55% x 293 = 161 additional detained cases
161 additional cases x \$176 x 109 days = \$3,088,624

Total Lost Labor Income for FY 2021-2023: \$9.94 Million

Fiscal Year	Lost Labor Income
2021	\$3,088,624
2022	\$2,589,840
2023	\$4,258,848
TOTAL 2021-2023	\$9,937,312

Lack of Representation Results in Loss of Economic Activity

Immigrants produce \$1.60 of economic activity for every dollar of income they earn, according to research from the Fiscal Policy Institute.²² Using this economic multiplier, CFI estimates that Colorado’s state and local economies lost out on **over \$6.8 million in economic activity** in FY 2023, **\$4.1 million** in FY 2022, and **\$4.9 million** in FY 2021. Across those three years, that is a total of more than **\$15.8 million in lost economic activity** in Colorado.

Calculating Lost Economic Activity

Fiscal Year	Loss in Economic Activity Based on Lost Income
2023	\$4,258,848 x 1.6 = \$6,814,156
2022	\$2,589,840 x 1.6 = \$4,143,744
2021	\$3,088,624 x 1.6 = \$4,941,798
2021-2023	\$15,899,698

²⁰ Lost labor income estimates for FY 2021 and FY 2022 follow the same methodology as lost labor income estimate for FY 2023, outlined in “Methodology of Lost Labor Income Estimate” above.

²¹ Additional cases that would have received bond with universal legal representation, see Footnote 18.

²² Fiscal Policy Institute. (2018). “Only Wealthy Immigrants Need Apply”: How a Trump Rule’s Chilling Effect Will Harm New York. <https://fiscalspolicy.org/wp-content/uploads/2018/10/NY-Impact-of-Public-Charge.pdf>

Lack of Representation Results in Lost Tax Revenue for Colorado

The 2022 median annual income of Coloradans without documentation was \$45,860, based on an estimate from the Migration Policy Institute.²³ Workers in this income bracket paid 9% of their income in state and local taxes, according to the Institute on Taxation and Economic Policy.²⁴ CFI estimates that Colorado lost out on **over \$383,000 in state and local taxes** in FY 2023, **\$233,000** in FY 2022, and **\$277,000** in FY 2021. Across those three years, that is a total of more than **\$894,000 in lost state and local taxes** in Colorado.

Calculating Lost State and Local Tax Dollars

Fiscal Year	Loss in State and Local Taxes Based on Lost Income
2023	\$4,258,848 x 0.09 = \$383,296
2022	\$2,589,840 x 0.09 = \$233,085
2021	\$3,088,624 x 0.09 = \$277,976
2021-2023	\$894,357

Cost of Representation Model ²⁵

In Colorado, and nationwide, legal professionals’ capacity is limited, and therefore so is the number of cases of people facing deportation who can receive full zealous legal representation before the U.S. immigration courts. Full and zealous representation is defined by representation by a high-quality attorney—who has a reasonable and sustainable caseload—from the start of a person’s time in deportation proceedings through all potential appeals. The people facing deportation considered here are only those with a Notice to Appear (NTA) filed—the charging document to appear before an immigration court. Other people facing deportation, such as people in expedited removal, may require legal assistance but are not factored into this model.

If Colorado were to invest roughly \$5 million annually for the next five years (\$25 million total), a recommended cost allocation is presented in Figure 1. This funding allocation includes some investment not only in direct non-detained and detained representation (and associated administrative and indirect costs,) but also investment in scaling up the legal capacity to increase the number of legal professionals in the state working in deportation defense.

²³ 2022 Median Earnings of Foreign-Born Full-Time, Year-Round Workers (age 16 and older) in the Current Year Inflation-Adjusted Dollars by U.S. Citizenship Status and Gender. Male and Female Noncitizen annual income was averaged for an annual base income of \$45,860 used here. Migration Policy Institute. (2022). *State Immigration Data Files: Colorado: Income & Poverty*. <https://www.migrationpolicy.org/data/state-profiles/state/income/CO/1000#>

²⁴ Institute on Taxation and Economic Policy. (2024). *Colorado: Who Pays? 7th Ed.* <https://itep.org/whopays/colorado-who-pays-7th-edition/>

²⁵ The Cost of Representation Model included in this report was written and conducted by researchers at the Vera Institute of Justice.

The approximate number of cases that could be represented with this level of funding are presented in Table 1, broken down by type of case. The number of cases that could be represented in a year does not imply that the cases represented necessarily closed in that year. Therefore, if a case is ongoing with representation for multiple years, it is included in the count for multiple years.

Figure 1: Recommended Funding Allocation for a \$25M Investment in Deportation Defense over Five Years

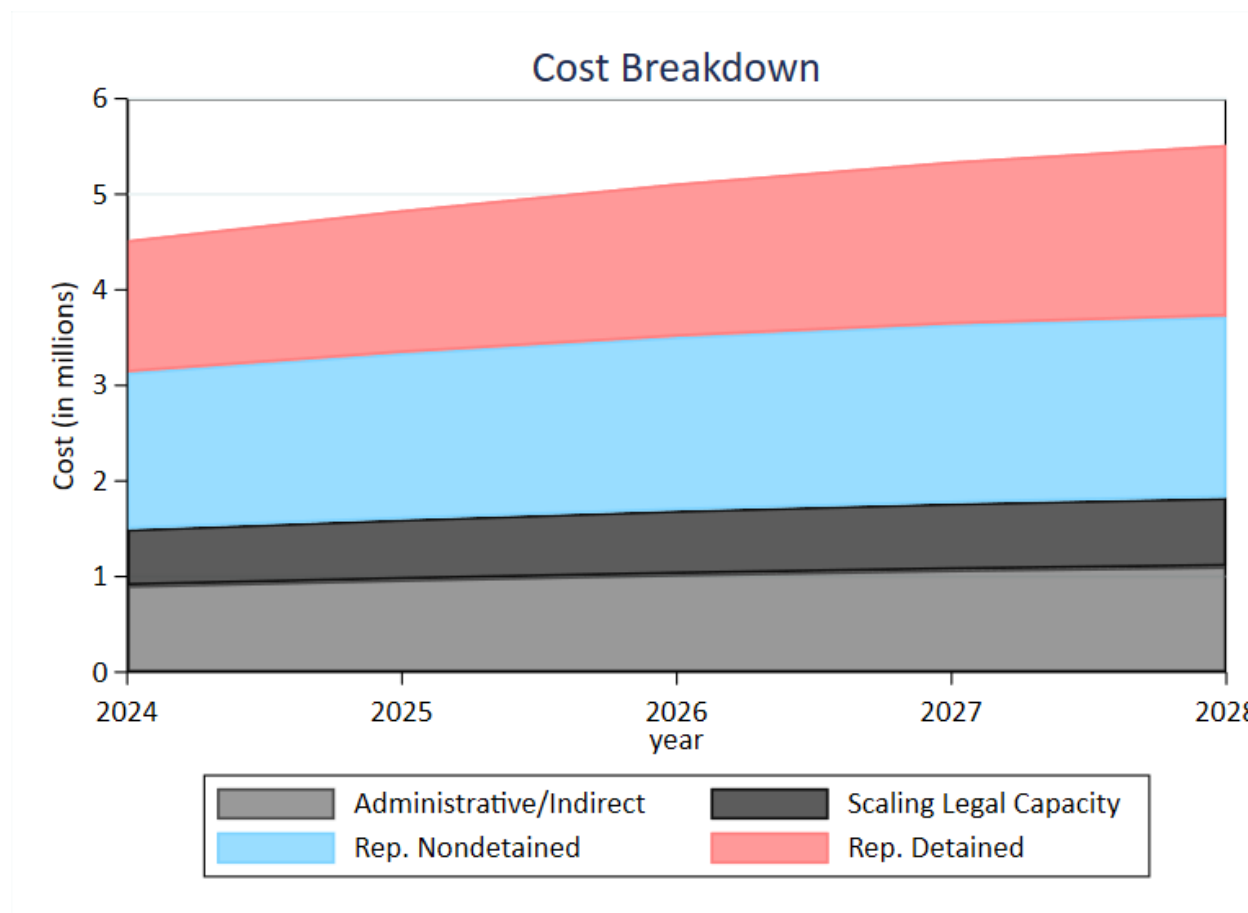


Table 1: Number of Cases that Could be Actively Represented in a Year with a \$25M Investment over Five Years, by Type of Case

Year	Non-Detained [Range]	Detained [Range]
2024	[341 to 379]	[77 to 88]
2025	[357 to 397]	[81 to 93]
2026	[371 to 414]	[85 to 98]
2027	[391 to 438]	[92 to 106]
2028	[404 to 453]	[98 to 113]

If Colorado invested \$5 million annually into the state Immigration Legal Defense Fund over five years starting in FY 2024, Vera Institute of Justice estimates that the fund would be able to provide full and zealous representation for between 404 and 453 non-detained cases and between 98 and 113 detained cases for FY 2028. It is important to remember that the number of cases that could be represented in a year does not imply that the cases represented necessarily closed in that

year. Therefore, if a case is ongoing with representation for multiple years, it is included in the count for multiple years.

Further, a \$5 million annual allocation is not sufficient to provide an attorney for each person in immigration proceedings in Colorado, and the state's legal capacity is far from meeting the vision of truly universal representation. There are not enough immigration attorneys in Colorado to meet the demand of the case backlog, which means it is necessary to make investments in growing the state's ability to adequately meet the need for representation. A \$5 million allocation is a scalable investment to expand current access and build future capacity for immigration legal defense in Colorado.

Expanding access to legal representation makes working through the immigration case backlog more equitable and efficient. Furthermore, providing legal representation for immigration cases is beneficial to state and local economies and governments through reducing time spent in detention, which decreases lost labor income and increases economic activity as well as state and local tax revenue.

Conclusion

The costs associated with Colorado's lack of access to legal representation for immigration cases are high. Across the three years from FY 2021-2023, CFI estimates that immigrants lost about **\$10 million of income** due to detention without representation, since those who are detained without representation are held for longer than those with representation.

Colorado's state and local economies missed out on **over \$15.8 million in economic activity** as a result of lost income due to detention from FY 2021-2023. Additionally, CFI estimates that Colorado missed out on **more than \$894,000 in state and local taxes** from FY 2021-2023 because immigrants were detained and unable to work.

The cost of keeping immigrants detained is a drain on our national tax dollars as well. Estimates vary, but it costs between \$4 million to \$8 million a day to detain immigrants in the United States.²⁶ FWD.us estimates that across 20 years, meaningful federal immigration reform would decrease the federal deficit by \$1.2 trillion.²⁷

Deportation cases affect the whole family and are associated with high social costs. Ninety thousand children in Colorado live in mixed-status households, which means that they live with at least one undocumented person and at least one non-undocumented person.²⁸ A 2018 CFI report finds that the detention and deportation of parents and close family members puts children and families at greater risk of mental health problems, lower academic achievement, and economic insecurity. CFI estimates that the state would take on an additional cost of

²⁶ Lunn, L., & Morales, S. (2024). Immigration Detention Should Offer Universal Legal Counsel. *Law360*. <https://www.law360.com/articles/1782298>

²⁷ FWD.us. (2024). *Immigration Reform: Building a Better Way*. <https://fwd.us/immigration/>

²⁸ FWD.us. (2024). *Immigration reform can keep millions of mixed-status families together*. <https://www.fwd.us/news/mixed-status-families-1/>

\$148,000,000 to provide mental health services to children who have had a parent detained and/or deported.²⁹

Currently, there are not enough immigration attorneys in Colorado to meet the need for representation, so it is necessary for the state to invest in growing the capacity of immigration legal defense. Making bold investments in the state Immigration Legal Defense Fund lays the groundwork for a future Universal Representation program. A \$5 million annual allocation to the Immigration Legal Defense Fund over five years is a scalable investment to build the state's capacity for immigration representation.

Colorado should invest more money into the state Immigration Legal Defense Fund to match the growing need for representation. Increasing access to legal representation advances justice and supports a more fair and efficient infrastructure for courts to work through the case backlog. Investing more funding towards immigration legal defense benefits local communities and economies, and this is an investment that is good for all Coloradans, yielding increased economic activity, tax revenue, and cost savings.

²⁹ Colorado Fiscal Institute. (2018). *The Impact of Deportation on Mental Health, Education Outcomes, and Economic Opportunity for Colorado Kids*. <https://www.coloradofiscal.org/wp-content/uploads/2018/06/Immigration-Enforcement-Harms-Children-and-Families-2.pdf>

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