



## **Fearing detention, undocumented immigrants seek ways to appoint guardians for their children**

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By Rupa Shenoy | January 06, 2020

Many undocumented immigrants in the US have been living with the threat of deportation for years — and those who are parents have an additional fear: What will happen to their children if they're detained by Immigration and Customs Enforcement? People across the country have been scrambling to find an answer to that question.

“It's something very — I don't know how to say it — very desperate, that we might be separated from our children,” a mother named Maria said in Spanish. She didn't want to provide her last name because she and her husband are undocumented.

Maria moved from El Salvador to Central Falls, Rhode Island, nearly 20 years ago. Her husband came from Guatemala. When US President Donald Trump took office, their daughter was 6, and their son was 7.

People began to talk about Trump's immigration policies. Maria and her husband worried about what would happen to their children if they were caught by Immigration and Customs Enforcement, or ICE.

Usually, when a parent is detained or deported by ICE, their kids go into state custody. State welfare officials may place children with other family members, or the kids may go into the foster care system.

“We had to see what to do for them to stay with someone else — it had to be someone familiar,” Maria said in Spanish.

So, how does a parent do that?

Turns out, a lot of people have been asking that question.

“To be honest, we did not have an answer,” said Elisa Ortiz at the Appleseed Network — a nonprofit group in Washington, DC, that works on social justice issues. They started looking into this in 2017.

“We thought at the time that it would be easy,” she said. “And we quickly figured out within a couple months that that was pretty much impossible.”

That's because guardianship laws can vary from state to state. Ortiz said during the AIDS crisis of the 1980s and '90s, some states set up policies allowing parents to appoint a guardian for their child — but only in the event of their death.

“A lot of states only allow you to do it if you're terminally ill and have a diagnosis that you're going to die within a certain amount of time,” Ortiz said.

She said most states don't have laws in place that allow parents to appoint guardians in the event of their detention or deportation. She said there's no way to know the impact that's had — how many children have ended up in the foster care system.

“We haven't been able to figure it out because a lot of places don't track it,” Ortiz said.

Activists, lawyers and immigrants across the country have been trying to find solutions. In Washington, DC, they successfully pushed for emergency legislation to allow immigrant parents to appoint guardians for their children if they're detained. Maryland and New York passed bills to do the same.

Rhode Island responded in another way. Attorney Jennifer Wood of the Center for Justice in Providence got together with other lawyers to create a six-page packet of legal documents that's been translated into Spanish and other languages. Parents can fill the packet out, sign it and give it to the person they've appointed guardian so they can claim the child. Wood said they can have the forms notarized, but it isn't required.

"We knew basically what the scenario was, and we knew we had to invent it because it didn't easily fit within any of the existing guardianship structures in Rhode Island law," she said. "We're a very small state, so we have those relationships. So, I just picked up the phone. That's a beautiful thing. And that's not always able to occur elsewhere in larger states or even large metro areas."

Wood speaks at gatherings like those in an activity room of The Learning Community Charter School in Central Falls. The tiny Providence suburb has gone from majority white to majority Latino in one generation. The school has become an unofficial resource and community center.

"This is an issue that it's very emotional to confront," Wood told an audience at a session on Nov. 21, 2019. "Unfortunately, if there is no plan and no designated person, in other states, children have been taken into custody of the state and then they will be placed in foster care and in foster homes."

A volunteer translated her words into Spanish. Parents balanced babies on their laps and took notes. Wood told them that if they complete the guardianship forms, Rhode Island welfare officials will honor them.

"They don't want to pay for your kids. That's a good thing," Wood said. "As long as someone has the documents, they're going to leave the kid alone."

The Learning school keeps copies of all its students' documents.

"We want to show we really are in solidarity," said school co-director Sarah Friedman. "We're not just kind of standoffish, like, 'Well, good luck with that horrible situation you're going through.'"

One night, they had nearly 50 attorneys to help parents appoint guardians. Friedman said some parents avoid these sessions out of fear it'll somehow tip off ICE. The school's administrative manager Maria Duque said they've done drills to prepare in case they do see ICE officers around. But they make her uneasy.

"It doesn't feel good doing that because it could be me. I was undocumented for many years," Duque said. "So, I had to walk the same path that they are walking right now. And it's not easy."

Maria came to one of the information sessions with her two children, who are students here. She's appointed her brother as their guardian. She knows her kids can be a handful though, so she's also appointed a backup guardian — a neighbor who's like family.

When Maria told her son and daughter about her preparations, they weren't happy.

"They said, 'We don't want you to go, we want you and Papi to always be with us,'" she said. "So, I said sometimes there are things that happen you can't control."

They still don't understand, but Maria said she feels better. Amid everything happening, she feels lucky to be in a place where she has some help to control at least one thing — the most important thing: the safety of her children.

