

AB 3 (Bonta) – STRONGER PUBLIC DEFENDERS ACT

PROPOSAL: California is the most immigrant-rich state in the nation. Under current law, even a single conviction for a misdemeanor offense can result in an individual's permanent, automatic deportation regardless of the immigrant's length of residence in the United States, community ties, dependent United States citizen children, rehabilitation, and/or military service. When public defenders have access to training and resources regarding the immigration consequences of criminal convictions, they can often carefully craft disposition that lessens or avoids these consequences for their immigrant clients, while still meeting the requirements set out by the prosecutor and court.

This bill would provide state funding to create Regional Centers and Statewide Resource Centers for public defenders to gain immigration expertise. Regional Centers will provide legal training, written materials, mentoring, and technical support to public defenders' offices on issues relating to the immigration consequences of criminal convictions. Statewide Resource Centers will provide Regional Centers and public defenders offices with ongoing training, written materials, technical assistance, and mentoring.

CURRENT LAW: In *Padilla v. Kentucky* (2010), 559 U.S. 356, the U.S. Supreme Court held that Sixth Amendment requires defense counsel to provide affirmative, competent advice about these consequences to noncitizen defendants. California courts have long held that defense counsel must investigate, advise, and defend against potential adverse immigration consequences of a proposed disposition, beginning with *People v. Soriano*, 194 Cal.App.3d 1470 (1987). In 2015, California enacted AB 1343 (Thurmond), which codified *Padilla* and these California court decisions to ensure California meets its constitutional obligations.

BACKGROUND: California is home to more immigrants than any other state in the nation. One out of every four state residents is foreign-born, and one out of every two children in California lives in a household headed by a foreign-born person.

Changes in federal immigration law significantly increased the deportation grounds for even minor criminal convictions, while also limiting judicial review and discretion in immigration cases for both lawful residents and undocumented immigrants. In recent

years, increased federal immigration enforcement prioritizing persons with criminal convictions has resulted in the deportation of hundreds of thousands of California residents and permanent separation from their families.

California does not currently provide funding to public defenders to do this work, and only a handful of counties are able to provide some level of service. This funding will help public defenders competently represent immigrant Californians and avoid deportations, while ensuring that the state and counties meet Sixth Amendment requirements. This assistance will help ease burdens on the court system, which now faces panicked immigrants and their families who have discovered a prior conviction will lead to deportation. Finally, avoiding unnecessary deportations will result in significant state budget savings by avoiding the cascade of economic and social disruptions caused by mass deportation, which can include: the loss of a family's primary wage earner, which can make the family more reliant on the social services safety net and public health insurance programs; the lost tax revenue from the deported worker; placement of children in foster care; and disruption in children's school attendance.

Other jurisdictions have already provided such funding. In 2010, New York City became the first city in the nation to provide funding so that every office in that city was able to secure one or more immigration experts to advise their colleagues about immigration consequences. In 2015, the New York State Office of Indigent Legal Services awarded \$8.1M to counties across the state to ensure that all court-appointed attorneys in criminal and family court have access to expert immigration advice. States such as Washington and Massachusetts have also long provided free immigration advice to defenders.

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