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EXECUTIVE DIRECTOR



January 24, 2017

The Honorable Travis Hutson
314 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399-1300

RE: Significant Concerns with SB 120

Dear Senator Hutson:

The Florida Conference of Catholic Bishops supports the rule of law, both with respect to immigration and criminal justice. We have also long sought comprehensive immigration reform, in large part to promote family stability and unification, citizenship and participation in public life with both rights and responsibilities. Although we understand your intent to address public safety and deter unlawful migration in our state by way of SB 120, we must raise serious concerns with this bill.

Unlawful presence is not a crime

It must be noted that unlawful presence is not criminal behavior; it is a civil violation of our immigration laws. It cannot be presumed that those who are undocumented have no regard for our criminal justice system and laws. Many undocumented persons were brought to the United States as children and many others entered the country legally. We cannot understate that those who entered without documents have committed civil – not *criminal* - violations.

Studies demonstrate that immigrants are less likely to commit crimes* but, noncitizens are more likely to go to prison and are more likely to receive longer sentences.** This bill would perpetuate already-disproportionate sentencing of immigrants and reduce judicial discretion.

Unlawful presence is not an aggravating factor at sentencing

Numerous cases suggest that the framework that sentences defendants more harshly because of alien status proposed in SB 120 violates the United States Constitution. Consider the cases *U.S. v. Leung*, 40 F.3d 577, 586-87 (2d Cir. 1994); *U.S. v. Onwuemene*, 933 F.2d 650, 651 (8th Cir. 1991); *People v. Gjidoda*, 364 N.W.2d 698, 701 (Mich. Ct. App. 1985); *U.S. v. Velasquez Velasquez*, 524 F.3d 1248, 1253 (11th Cir. 2008); *Yemson v. U.S.*, 764 A.2d 816, 819 (D.C. 2001); *U.S. v. Gomez*, 797 F.2d 417, 419 (7th Cir. 1986); *State v. Mendoza*, 638 N.W.2d 480, 484 (Minn. Ct. App. 2002); *Martinez v. State*, 961 P.2d 143, 145 (Nec. 1998); *State v. Zavala-Ramos*, 840 P.2d 1314, 1316 (Or. Ct. App. 1992).

Problematic results for family stability and reunification

We are hopeful that federal reform can someday provide a pathway to legal status in the U.S. for those who are currently undocumented. By increasing a first degree misdemeanor to a third degree felony, SB 120 almost certainly will prevent these individuals from adjusting to a future legal status. Imagine the detrimental impact on a family with citizen children whose parent is to be barred from legal status in the United States in terms of economic and social stability.

Comprehensive immigration reform is needed

At the present, our immigration system is broken. A more reasoned and integrated system could better address the problems this bill seeks to address. We urge the Senate to send a resolution to Florida's congressional delegation in support of comprehensive immigration reform.

Sincerely,



Michael B. Sheedy

cc: The Honorable Greg Steube, Chair, and Members of the Senate Judiciary Committee
Most Rev. Thomas G. Wenski, Archbishop of Miami and FCCB President
Most Rev. Frank J. Dewane, Bishop of Venice & FCCB Social Concerns Moderator
Ingrid M. Delgado, Associate for Social Concerns/Respect Life

* Walter Ewing, Ph.D., Daniel E. Martínez, Ph.D. & Rubén G. Rumbaut, Ph.D., *The Criminalization of Immigration in the United States*. American Immigration Council Special Report (2015).

** Michael T Light, Michael Massoglia, & Ryan D King, *Citizenship & Punishment: The Salience of Nat'l Membership in US Crim. Cts.*, 79 Amer. Sociological R. 825, 835 (2014).