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MICHAEL B. SHEEDY
EXECUTIVE DIRECTOR



March 14, 2017

The Honorable Dane Eagle
322 The Capitol Building
402 S. Monroe Street
Tallahassee, FL 32399-1300

RE: Significant Concerns with HB 83

Dear Representative Eagle:

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. Immigration and criminal justice are both the subject of HB 83, and we offer the following serious concerns about the 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 should not 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 should not be an aggravating factor at sentencing

Numerous cases suggest that the framework that sentences defendants more harshly because of alien status proposed in HB 83 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 soon provide a pathway to legal status in the United States for those who are currently undocumented. By increasing a first degree misdemeanor to a third degree felony, HB 83 will almost certainly prevent some of these individuals from adjusting to a future legal status because of a prior felony conviction. Imagine the detrimental economic and social impact on a family with citizen children whose parent is to be barred from legal status in

the United States, or upon someone brought here as a child and forced to return to a country of birth, where the local language is unknown.

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. In place of HB 83, we urge the House to send a resolution to Florida's congressional delegation in support of comprehensive immigration reform.

Thank you for your consideration of these concerns.

Sincerely,



Michael B. Sheedy

cc: The Honorable Ross Spano, Chair, and Members of the Criminal Justice Subcommittee
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).