



One Day to Protect New Yorkers

CAMPAIGN OBJECTIVE

Amend New York Penal Law to reduce the maximum prison sentence for New York misdemeanor offenses by one day (from 365 days to 364 days) to join other states that have recently taken such a step to protect immigrant state residents from deportation for minor offenses.

WHY DOES ONE DAY MAKE A DIFFERENCE?

Although federal immigration and New York criminal law are distinct bodies of law, they nonetheless combine to create, for many immigrants, harsh and often counterintuitive consequences. Though the proposed one day change is a small change in state law, it would greatly reduce the immigration consequences faced by immigrant New Yorkers convicted of a misdemeanor offense. Immigrants are currently being deported for misdemeanor convictions, and immigration judges are being deprived of discretion to consider whether these deportations are warranted, because the maximum *potential* penalty for misdemeanors is one year. This is true, in most circumstances, even if the individual does not spend any time in jail at all. In fact, 40% of misdemeanor convictions do not result in *any* sentence of incarceration and only 4% of misdemeanor convictions result in the maximum sentence of one year. Immigrants, including asylees, victims of domestic violence, and green card holders, many of whom have lived legally in the U.S. for decades, are being needlessly deported due to single misdemeanor convictions. These deportations often result in the tragic separation of children from their parents. A one day reduction in the maximum penalty for misdemeanors would help keep countless New York families together.

WHY ACT NOW?

The time to act is right now because California, Washington and Nevada have recently taken action to protect their immigrant communities by enacting one day reductions in misdemeanor sentences, thereby joining other immigrant-rich states like New Jersey, Illinois, and New Mexico, which already had a maximum penalty for misdemeanors, or equivalent offenses, of 364 days or less. Nowhere is our nation's immigrant tradition richer than in the Empire State. New York is home to one of the most diverse populations in the country. Twenty-two percent of New Yorkers are foreign born and in the United States, 16.6 million people currently live in mixed-status families. Over our state's history, immigrant populations have contributed immensely to the economy and the cultural fabric of this state, and, as other states have already found, immigrant community members deserve protections from extreme and arbitrary immigration consequences.

HOW WILL A ONE DAY REDUCTION IN SENTENCES AFFECT IMMIGRANTS?

- **Preventing Deportation Based on a Misdemeanor Offense:** Because A misdemeanors in New York have a *potential* sentence of one year, even green card holders can often be deported for a single misdemeanor conviction, even if they are not sentenced to a single day in jail. Reducing the maximum potential sentence by one day would spare thousands of such lawfully present immigrants from deportation.
- **Protecting Vulnerable New Yorkers:** Immigration law is supposed to protect people who would face persecution if deported (asylees), and immigrant victims of domestic violence (VAWA recipients). However, because A misdemeanors in New York have a *potential* sentence of one year, these vulnerable New Yorkers can be deprived of protection from removal based upon a single misdemeanor conviction, sometimes even if they are not sentenced to one day in jail. Reducing the maximum potential sentence by one day would help protect these vulnerable New Yorkers.
- **Restoring Discretion to Immigration Judges:** Currently, a conviction for certain misdemeanors offenses can trigger mandatory deportation, even for green card holders. Because of the way New York's one year maximum sentence for misdemeanors interacts with a draconian provision of federal immigration law, Immigration Judges are often deprived of discretion to even determine whether deportation is warranted. Reducing the maximum potential sentence by one day would restore discretion to immigration judges.

For more information on the One Day to Protect New Yorkers campaign, please contact
1Day4NY@immdefense.org