



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
SACRAMENTO LEGISLATIVE OFFICE

GEORGE GASCÓN • District Attorney
SHARON L. WOO • Chief Deputy District Attorney
JOSEPH F. INIGUEZ • Chief of Staff

DANIEL FELIZZATTO • Legislative Advocate
TAMAR TOKAT • Legislative Advocate

January 19, 2022

The Honorable Scott Wiener
California State Senate
1021 O Street, Suite 6630
Sacramento, CA 95814

SENATE BILL 836 (WIENER)
CO-SPONSOR

Dear Senator Wiener:

The Los Angeles County District Attorney's Office is pleased to co-sponsor Senate Bill 836, along with the San Francisco District Attorney's Office, Coalition for Humane Immigrant Rights, California Employment Lawyers Association and Legal Aid at Work.

In 2018, California enacted Senate Bill 785 which precluded an attorney in a civil or criminal proceeding from disclosing a person's immigration status in open court without first requesting an in camera hearing and obtaining a ruling that the disclosure is admissible.

Prior to the enactment of SB 785, there were numerous documented examples of defense attorneys disclosing the immigration status of crime victims and witnesses in open court. Additionally there were reports of United States Customs and Immigration agents making arrests of undocumented immigrants in California courthouses. Combined, these actions caused a "chilling effect" on undocumented person's willingness to come to court and testify.

This "chilling effect" became so great that Chief Justice Tani Cantil-Sakauye wrote a letter to then United States Attorney General Jeff Sessions and Homeland Security Secretary John Kelly expressing concern about immigration agents staking out California courthouses. In her letter Chief Justice Cantil-Sakauye stated:

When an individual's immigration status is publicly aired in our courthouses, some Officers of the courts are chilling the participation by undocumented immigrants by conveying to them that their participation in our courts may lead to their deportation. All Californians need to have safe access to our courts. When our residents feel apprehension or fear when participating in our system of justice, our collective public safety is undermined.

Unfortunately, the protections enacted by SB 785 accidentally sunsetted on January 1, 2022. It is imperative that these protections are reenacted as soon as possible to ensure the continued participation of all California residents in our judicial system.

1100 K Street, Suite 404
Sacramento, CA 95814
(916) 442-0668
Fax: (916) 444-8729

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SB 836 would reenact the protections established by SB 785 and it includes an urgency clause so its provisions can take effect immediately.

The language in SB 836 is well crafted and contains appropriate exemptions when proof of a person's immigration status is an element of a claim or affirmative defense in civil matters or when a person's immigration status is an element of an offense or affirmative defense in a criminal action. Nothing in SB 836 prohibits a person or his or her attorney from voluntarily disclosing their immigration status to the court.

The protections in SB 836 are crucial to protecting public safety. Numerous studies show that undocumented immigrants are less likely to report crime and cooperate with law enforcement if they believe working with police and prosecutors will lead to deportation. In addition, research has also shown that a community's failure to report crime leads to more victimization of that community. The involuntary disclosure of a person's immigration status in an open courtroom results in less cooperation with law enforcement, lower defendant accountability, and ultimately more crime.

Thank you for introducing this important legislation.

If you have any questions or need additional information, please feel free to contact Daniel Felizzatto in my Sacramento Legislative Office at (916) 442-0668.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Gascón", written in a cursive style.

GEORGE GASCÓN
District Attorney