



April 4, 2018

The Honorable Lorena Gonzalez Fletcher  
State Capitol, Room 2114  
Sacramento, CA 95814

**Re: AB 2867 (Gonzalez Fletcher)**  
**Position: SUPPORT**

via email and facsimile

Dear Assemblymember Gonzalez Fletcher:

The California Chapters of the American Immigration Lawyers Association (AILA) write in strong support of AB 2867 (Gonzalez Fletcher). The American Immigration Lawyers Association is the national association of immigration lawyers established to promote justice, advocate for fair and reasonable immigration law and policy, advance the quality of immigration and nationality law and practice, and enhance the professional development of its members. Member attorneys represent tens of thousands of families, U.S. businesses, foreign students, researchers, entertainers and asylum seekers. The California Chapters of AILA include Northern California Chapter, Southern California Chapter, Santa Clara Valley Chapter, and San Diego Chapter. Together we have more than 2500 attorney members in the state of California.

AB 2867 will provide important clarifications about the proper implementation of Penal Code § 1473.7 (AB 813, Gonzalez Fletcher, 2016), a recently adopted legal vehicle that allows people no longer in criminal custody to challenge legally invalid convictions. On January 1, 2017, the California Legislature enacted Penal Code §1473.7, allowing individuals no longer in criminal custody to file a motion to vacate a conviction or sentence based on either: (1) an error damaging the defendant's ability to meaningfully understand, defend against, or knowingly accept the actual or potential adverse immigration consequences of a plea of guilty or nolo contendere, or (2) newly discovered evidence of actual innocence. Penal Code § 1473.7 filled a gaping hole in California's criminal procedural landscape by creating a statutory vehicle for individuals to erase the catastrophic consequences (immigration or otherwise) that can attach to even very old and unlawful criminal convictions. AB 2867 ensures that the promise of AB 813 is achieved by clearing up minor discrepancies that have arisen since implementation.

In light of the Trump administration's increased immigration enforcement, California Penal Code §1473.7 motions have proven to be a critical legal tool for immigrants to challenge old, legally invalid convictions. Prior to the enactment of Penal Code §1473.7, individuals who gained access to evidence of actual innocence, or to proof of a defect in the underlying criminal proceeding, had no legal vehicle to present this evidence after their criminal custody had expired.

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This lack of a remedy had a particularly devastating impact on California's immigrants, many of whom suffered convictions without having any idea that their criminal record could result in mandatory immigration imprisonment and deportation, permanently separating families.

Courts throughout California have been reviewing and hearing these motions since the section became operative for more than a year. As these motions have been adjudicated, courts have reached differing interpretations of the proper timing and grounds for the motions, necessity of holding hearings, and the notice that must be provided to the petitioning individual's prior defense counsel. AB 2867 will help resolve these discrepancies, ensure that the true intent of Penal Code §1473.7 is realized, and save courts and litigants needless time consuming and costly litigation.

For these reasons, the California Chapters of AILA strongly support AB 2867.

Sincerely,



Tala Hartsough, Chair  
Northern California Chapter  
American Immigration Lawyers Association



Blake Miller, Chair  
Southern California Chapter  
American Immigration Lawyers Association



Tammy Lin, Chair  
San Diego Chapter  
American Immigration Lawyers Association



Yemi Getachew, Chair  
Santa Clara Valley Chapter  
American Immigration Lawyers Association

cc: Members and Committee Staff, Assembly Public Safety Committee