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IMMIGRANT  
DEFENSE  
PROJECT

## CRIMINAL JUSTICE REFORM ACTIVISTS AND STATE LEGISLATORS RALLY TO RESTORE JUDICIAL DISCRETION IN CASES WHERE IMMIGRANTS FACE DEPORTATION

*"One Day to Protect New Yorkers Act" would reduce the maximum sentence for Class A misdemeanors by just one day, from 365 to 364 impacting immigrants who face deportation under Federal immigration law*

(ALBANY, NY) More than 100 U.S. immigrants, state law makers and criminal justice reform activists rallied today in Albany and called upon the State Legislature to enact a simple change to the state penal law that would reduce the maximum sentence for Class A misdemeanors by just one day, from 365 to 364. This small change would give federal immigration judges the authority to exercise discretion in more deportation cases and would protect thousands of New Yorkers facing harsh immigration consequences stemming from a misdemeanor offense. The **One Day to Protect New Yorkers** rally was organized by [The Fortune Society](#), one of the nation's most respected nonprofit organizations serving and advocating for formerly incarcerated men and women, and the [Immigrant Defense Project](#) (IDP), a New York-based nonprofit that works to secure fairness and justice for immigrants in the U.S. criminal legal and immigration systems.

Under current federal immigration law, many immigrants can be deported after a conviction simply because they face a sentence of up to a year or more incarceration. Because A misdemeanors in New York have a potential sentence of one year, even green card holders can 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 could potentially spare thousands of immigrants from deportation.

Currently, a conviction for certain misdemeanors can trigger mandatory deportation. 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. The One Day to Protect New Yorkers Act would reduce the maximum potential sentence by one day would help restore discretion to immigration judges and allow them to assess each case on an individual basis.

**Khalil A. Cumberbatch**, Associate Vice President of Policy at The Fortune Society, said, "As a native of Guyana and person who faced deportation due to a criminal conviction, I understand the trauma that mandatory deportation inflicts on immigrant families. It's time for New York, purportedly one of the most progressive states in the nation, to take action. One Day to Protect New Yorkers addresses an issue rooted at the intersection of the criminal legal and immigration systems. We are committed to ending the mass deportation that continues to tear apart communities and families, and the dehumanizing racism and criminalization at the core of these systems.

**Alisa Wellek**, Executive Director of the Immigrant Defense Project, said,

"Immigrant New Yorkers face great risks of permanent separation from their loved ones because of incredibly harsh immigration laws that severely limit due process for even long time permanent residents. New York stands for fairness and justice, not hate and division. The One Day to Protect New Yorkers bill provides a critical opportunity for the state legislature to protect not only thousands of immigrant New Yorkers, but the values that define our state."

Advocates pointed to a real-life example of how "One Day to Protect New Yorkers" would benefit our immigrant communities:

*Mr. Z. is a lawful permanent resident green card holder, who came to the U.S. from Guyana almost 24 years ago. He is a hard-working individual who has been constantly employed, supporting himself and his 11-year-old daughter, a U.S. citizen. Mr. Z also suffers from a serious health condition, having suffered a stroke that left him temporarily paralyzed. He requires ongoing treatment and must rely on life-saving medications that are unavailable in Guyana. He is currently facing deportation to Guyana for a single misdemeanor conviction that occurred almost a decade ago. It was his one and only contact with the criminal justice system. The offense involved his use of his girlfriend's credit card, and he has always maintained that he had her permission to use it. If he is deported to Guyana, he will not be able to receive proper medical care and most importantly, his daughter will be forced to grow up without the father she has depended on all her life. The One Day to Protect New Yorkers Act will protect Mr. Z against deportation and will prevent his separation from his daughter.*

The **One Day to Protect New Yorkers Act** (A.4881/S.4294). is sponsored by Senator Marisol Alcantara, District 31, and Assemblymember Marcos Crespo, District 85.

Senator Alcantara said, "As an immigrant from the Dominican Republic, I understand the continued need to persistently advocate for those most vulnerable under a rigid immigration system and ultimately be a voice for immigrants to ensure they are protected from arbitrary deportation. It is for this reason that I have introduced into the Senate S.4294, which reduces the maximum sentence for misdemeanor offenses from one year to 364 days. The intent of this bill is to remedy possible negative immigration effects based on technicalities of the federal law."

Assemblymember Crespo said, "I am the son of Puerto Rican and Peruvian parents; one an American citizen by birth, the other through immigration and naturalization. Their hardships and hard work has given me the opportunity to serve our State and nation as an elected official. The values they instilled in me are the cornerstone of my work as a public official for the people of New York State. While the Trump administration focuses their efforts on immigration enforcement, the Assembly will continue to focus our energy on passing legislation to protect immigrants' private information, prohibit profiling by local police departments, and make it more difficult to deport non-citizen New Yorkers for misdemeanor crimes. I am proud to sponsor A.4881 and appreciate the support of advocates like the Immigrant Defense Project and The Fortune Society."

Supporters noted that this bill does not mean that class A misdemeanors would no longer trigger immigration consequences. Many would still trigger grounds for removal. For instance, a controlled substance offense, a crime of child abuse, a crime of domestic violence, and a firearm offense would all still trigger deportability, regardless of the sentence imposed, as does having more than one "crime involving moral turpitude." The bill targets a subset of class A misdemeanors where the potential or imposed sentence triggers disproportionately harsh immigration consequences, but does not affect federal deportation grounds that are based on the type of offense itself.

State Senator Jesse Hamilton said, "We have a federal administration imposing draconian, unjust restrictions and promising more to come. As leaders in a state that has welcomed immigrant communities for hundreds of years, we need to fight back and reassure our immigrant friends and neighbors that we stand together in protecting them. We celebrate the American values of diversity and inclusion; S.4294 reforms the law by changing the maximum sentence on a class A misdemeanor by one day restoring discretion to federal immigration judges, allowing these values to remain intact."

Participating in today's rally were more than 100 immigrants, advocates and elected officials including bill sponsors Senator Marisol Alcantara and Assemblymember Marcos Crespo; Senators Jamaal Bailey, Michael Gianaris, and Brian Benjamin; Assemblymember Al Taylor; Anthony Posada, Legal Aid Society; Camille Mackler, NY Immigration Coalition; Donald Anthonyson, Families for Freedom; advocacy groups including Brooklyn Defender Services; Bronx Defender Services; Sanctuary for Families; Make the Road; and others.

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**ABOUT THE FORTUNE SOCIETY:** Founded in 1967, The Fortune Society has advocated on criminal justice issues for five decades and is nationally recognized for developing model programs that help people with criminal justice histories to be assets to their communities. Fortune offers a holistic and integrated "one-stop-shopping" model of service provision. Among the services offered are discharge planning, licensed outpatient substance abuse and mental health treatment, alternatives to incarceration, HIV/AIDS services, career development and job retention, education, family services, drop in services and supportive housing as well as lifetime access to aftercare. For more information, visit [www.fortunesociety.org](http://www.fortunesociety.org).

**ABOUT IMMIGRANT DEFENSE PROJECT:** The Immigrant Defense Project (IDP) is a New York-based nonprofit that works to secure fairness and justice for immigrants in the U.S. criminal legal and immigration systems. We do this through advocacy, litigation, legal support, and work with community-based organizations

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