

1 [SUPPORTING ASSEMBLY BILL 1259]

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3 **Resolution Supporting the passage of AB 1259 (Chiu) Criminal procedure: Motion to**
4 **vacate (Expanding Post-Conviction Relief for Immigrants)**

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6 WHEREAS, Immigrants with criminal convictions are more vulnerable than any other group
7 to be targets for deportation making up the overwhelming majority of deportations that occur
8 in any year; and

9 WHEREAS, convictions effectively close all doors to immigration relief, potentially eliminating
10 any chance of remaining in the United States; and

11 WHEREAS, many immigrants suffer convictions without having any idea that their criminal
12 record would result, at some point in the future, in mandatory immigration imprisonment and
13 deportation, permanently separating families; and

14 WHEREAS, underlying convictions are frequently unlawful, commonly due to a noncitizen
15 defendant's failure to understand or have been advised or defended against a conviction's
16 immigration consequences; and

17 WHEREAS, the United States Supreme Court held in Padilla v. Kentucky that a defense
18 counsel's failure to provide these deportation risks renders a conviction unconstitutional; and

19 WHEREAS, in 2016 AB 813 Criminal procedure: postconviction relief was passed and
20 chartered providing recourse for these injured parties by creating a process for a defendant to
21 present evidence of a legal defect in their criminal case before the trial court; and

22 WHEREAS, a legal defect can include a failure to meaningfully understand or knowingly
23 accept immigration consequences of pleading to a specific crime that could later become
24 grounds for detention or deportation; and

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1 WHEREAS, AB 813 is currently limited to people convicted by plea agreement and not to
2 individuals convicted by jury trial; and

3 WHEREAS, passage of AB 1259 Criminal procedure: Motion to vacate would extend the
4 opportunity to challenge old, legally invalid convictions to those who exercised their
5 constitutional right to a jury trial; now therefore be it

6 RESOLVED, that the San Francisco Immigrant Rights Commission endorses AB 1259
7 Criminal procedure: Motion to vacate (Expanding Post-Conviction Relief for Immigrants); and
8 be it

9 FURTHER RESOLVED, that the San Francisco Immigrant Rights Commission respectfully
10 asks the Mayor and the Board of Supervisors to support passage of AB 1259 Criminal
11 procedure: Motion to vacate and to urge legislators throughout the state of California to
12 support AB 1259.

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