[DATE]

**Re: [BILL] (SPONSOR)**

**Position: Support**

[REPRESENTATIVE] [ADDRESS]

Via fax: [NUMBER], email: [ADDRESS]

Dear [REPRESENTATIVE]:

On behalf of [YOUR ORGANIZATION], I write in support of [BILL] by [SPONSOR]. [BILL] would provide an option for courts to offer pretrial diversion for minor drug offenses rather than requiring a guilty plea as a prerequisite for entry into drug education or treatment. This option existed for many years in California, until 1997. This bill will address cruel and unintended federal consequences that flow from the guilty plea including deportation, and provide greater flexibility for local courts. This bill provides for equal opportunity for diversion for all California residents and protects families from being torn apart due to a misalignment between state and federal law.

Current California law provides for deferred entry of judgment (DEJ) for minor drug offenses. A defendant is required to plead guilty, waive his or her right to a speedy trial, and complete a drug treatment or education program. If the defendant completes the program and other terms of probation, the criminal charges against the defendant are dismissed. Defendants are misadvised, however, that once the charges are dismissed, there will be no conviction for any purpose, the arrest will be deemed never to have occurred, and they will not be denied any benefit.

However, the dismissal does not protect defendants from federal consequences. Even for U.S. citizens, these convictions can carry long-term negative consequences, including loss of federal housing and educational benefits. For noncitizens, the consequences can be immediate and devastating, including deportation, mandatory detention, and permanent separation from families.

Convictions for minor drug offenses result in much harsher consequences for noncitizens, since these offenses automatically trigger deportation proceedings when a guilty plea is involved. Once in deportation proceedings, people are often imprisoned in private, for-profit prisons far from their families, without legal representation—all for an offense that the state of California no longer deems to exist.

According to data published by Syracuse University, over 250,000 people have been deported from the U.S. for nonviolent drug offenses since 2008. A nonviolent drug offense was the cause of deportation for more than one in every ten people deported in 2013 for any reason.

This is particularly devastating to families in California, which is the most immigrant-rich state in the U.S. One out of every four persons living in our state is foreign-born. Half of California’s children live in households headed by at least one foreign-born parent -- and the majority of these children are U.S. citizens. It is estimated that 50,000 parents of California U.S. citizen children were deported in a little over two years, leaving many children parentless. Deportation due to minor drug offenses destroys California families.

[BILL] will amend Penal Code 1000 *et seq.* to allow courts to offer pretrial diversion, rather than require a guilty plea. This was the way that PC 1000 worked until 1997. Because there will be no guilty plea, there will be no conviction for federal immigration purposes unless the defendant fails the program. For any person who fails to adhere to conditions of a pretrial diversion program, the court could reinstate the charges and proceed pursuant to existing law. [BILL] does not change the offenses eligible for diversion. Diversion will not be allowed for any person charged with drug sale, or possession for sale, nor will be allowed for persons who involve minors in drug sales or provide drugs to minors.

[BILL] will create greater flexibility and efficiency, allowing judges to offer pretrial diversion when the court believes it is in the best interest of justice, and best matches local resources and values. The court will have the choice of PC 1000 pretrial diversion, or any of the post-conviction diversion options including drug court, Proposition 36 diversion, probation, split sentencing or incarceration.

Further, immigrant defendants will have equal opportunity to avail themselves of drug treatment or education, or other court options, as U.S. citizens. Today, defense attorneys who are aware of the severe federal consequences of entering a guilty plea and accepting diversion conditions, advise immigrant clients to deny a plea offer, to go to court, and to seek any and all legal remedies or necessary delays in order to avoid deportation, and separation from employment, home, and family.

It is well past the time that California keep the basic promise of equal justice for all, and remove the groundless disparity in the application of these laws. Individuals who complete diversion programming and probation will no longer face federal consequences including deportation, and in this way, pre-plea diversion will better protect California children and families. Further, it will allow the courts to operate with greater flexibility and efficiency, using local resources in a manner that the court considers both just and cost-effective. For these reasons, among others, our organization strongly supports [BILL] by [SPONSOR]. For more information on our organization or position, please contact me at [PHONE NUMBER and/or EMAIL]. Thank you for your consideration our position, and your leadership for all California families, including immigrant-led families.

Respectfully,

Signature

Name

Organization and Title

cc: Armando Gudiño, Drug Policy Alliance, c/o [AGudino@drugpolicy.org](mailto:AGudino@drugpolicy.org)