

January 28, 2011

## MISSION

OneAmerica advances the fundamental principles of democracy and justice at the local, state and national levels by building power within immigrant communities in collaboration with key allies.

### Testimony on Behalf of OneAmerica in Support of SB5168 Senate Judiciary Committee

Distinguished Members of the Senate Judiciary Committee,

On behalf of OneAmerica and its members, we submit the following testimony in strong support of SB5168, *Reducing maximum sentences for gross misdemeanors by one day*. We believe this piece of legislation is a simple and sound policy change that ensures non-citizen defendants who face misdemeanor charges receive the same treatment as those charged with felonies, does not impact the enforcement of current immigration law, protects the interests of families of U.S. citizens, and saves the state money by keeping children out of the child welfare system.

A member-based organization and the largest immigrant advocacy organization in the state, OneAmerica's mission is to advance the fundamental principles of democracy and justice through building power in immigrant communities, in collaboration with key allies. Our members are active in community base groups across Washington State, including in Mt. Vernon, White Center/Burien, Tacoma, Vancouver, Kent, Walla Walla, Tri-Cities, Yakima, and many other cities, and have identified the issue of 365-day maximum gross misdemeanor sentences as one that currently harms our communities.

One day may not seem like a substantial change, but for non-citizen defendants faced with a maximum gross misdemeanor sentence of 365 days, it can mean the difference between staying in the U.S. with your family and automatic deportation. Under immigration law, sentences of 365 days or more—regardless of time served in prison—are classified as “aggravated felonies,” resulting in automatic deportation. Whether you have lived in the U.S. for one year or fifty, have a spouse and children or none, the result of a 365 day or more sentence is the same—automatic deportation.

SB5168 recognizes the difference one day can make by changing the maximum sentence for a gross misdemeanor conviction to “less than one year,” which ensures that non-citizen defendants with gross misdemeanor convictions are treated the same as those convicted of other crimes. This change does not foreclose the possibility of deportation, but ensures that the conviction will be one of many other considerations before an immigration judge determining the non-citizen's fate.

MISSION  
OneAmerica  
advances the  
fundamental  
principles of  
democracy and  
justice at the  
local, state and  
national levels  
by building  
power within  
immigrant  
communities  
in collaboration  
with key allies.

The one day change will also protect the interests of U.S. Citizens and their families. Currently, even the non-citizen spouse of a U.S. Citizen with U.S. Citizen children is subject to automatic deportation for shoplifting a milk carton if they are given the maximum gross misdemeanor conviction of 365 days, even if they do not serve one day behind bars. Conversely, a non-citizen defendant with no spouse or children convicted of a second degree felony who serves three to six months in prison would not be subject to automatic deportation, but would have the conviction considered by an immigration judge in determining their fate.

Because the one day change would provide non-citizen defendants with judicial discretion in gross misdemeanor convictions where the maximum sentence is given, many parents of U.S. Citizens would be spared from deportation. This will allow them to remain in the U.S. to care for their families, thereby keeping children with their parents instead of in the state's custody. Not only will this save the state money, but it will keep the families of U.S. citizens intact and protect children from the trauma of family separation.

SB5168 represents a simple, one day, policy change that will have a positive impact on families and communities across Washington State. For this reason and those outlined above, we urge the committee to look favorably upon SB5168. Thank you for your consideration.

Respectfully submitted,



Pramila Jayapal  
Executive Director  
OneAmerica



Toby Guevin  
State Policy & Legislative Manager  
OneAmerica