

117TH CONGRESS
1ST SESSION

S. 2954

To amend the Immigration and Nationality Act to alter the definition of “conviction”, and for other purposes.

IN THE SENATE OF THE UNITED STATES

OCTOBER 7, 2021

Mr. PADILLA (for himself, Ms. HIRONO, Mr. BOOKER, Ms. WARREN, Mr. SANDERS, Mrs. FEINSTEIN, Mr. BLUMENTHAL, Mr. MARKEY, Mr. WHITEHOUSE, and Ms. BALDWIN) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the Immigration and Nationality Act to alter the definition of “conviction”, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fair Adjudications for
5 Immigrants Act”.

6 **SEC. 2. EXPUNGEMENT AND SENTENCING.**

7 (a) DEFINITION OF CONVICTION.—

1 (1) IN GENERAL.—Section 101(a)(48) of the
2 Immigration and Nationality Act (8 U.S.C.
3 1101(a)(48)) is amended to read as follows:

4 “(48)(A) The term ‘conviction’ means a formal judg-
5 ment of guilt entered by a court.

6 “(B) The following may not be considered a convic-
7 tion for purposes of this Act:

8 “(i) An adjudication or judgment of guilt that
9 has been dismissed, expunged, deferred, annulled, in-
10 validated, withheld, vacated, or pardoned federally or
11 by a State or locality, including by the President of
12 the United States or by a person or agency author-
13 ized by State law to grant such pardon.

14 “(ii) Any adjudication in which the court has
15 issued—

16 “(I) a judicial recommendation against re-
17 moval;

18 “(II) an order of probation without entry
19 of judgment; or

20 “(III) any similar disposition.

21 “(iii) A judgment that is on appeal or is within
22 the time to file direct appeal.

23 “(C)(i) Unless otherwise provided, with respect to an
24 offense, any reference to a term of imprisonment or a sen-

1 tence is considered to include only the period of incarcer-
2 ation ordered by a court.

3 “(ii) Any such reference shall be considered to ex-
4 clude any portion of a sentence of which the imposition
5 or execution was suspended.”.

6 (2) RETROACTIVE APPLICABILITY.—The
7 amendment made by this subsection shall apply with
8 respect to any conviction, adjudication, or judgment
9 entered before, on, or after the date of the enact-
10 ment of this Act.

11 (b) JUDICIAL RECOMMENDATION AGAINST RE-
12 MOVAL.—The grounds of inadmissibility and deportability
13 under sections 212(a)(2) and 237(a)(2) of the Immigra-
14 tion and Nationality Act (8 U.S.C. 1182(a)(2) and
15 1227(a)(2)) shall not apply to an alien with a criminal
16 conviction if, after having provided notice and an oppor-
17 tunity to respond to the prosecuting authorities, the sen-
18 tencing court issues a recommendation to the Secretary
19 that the alien not be removed on the basis of the convic-
20 tion.

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