

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: June 11, 2019

TO: Honorable Members of the Rules, Elections and
Intergovernmental Relations and Neighborhoods Committee

FROM: Sharon M. Tsou 
Chief Legislative Analyst

Council File No: 19-0002-S95
Assignment No: 19-05-0548

SUBJECT: Immigration Legal Services

CLA RECOMMENDATION: Adopt the attached Resolution to include in the City's 2019-2020 State Legislative Program, SUPPORT of Assembly Bill (AB) 1753 to make it unlawful to provide legal advice or services related to any immigration matter for anyone who is not an attorney or authorized by federal law.

SUMMARY

On May 22, 2019, a Resolution (Martinez-Cedillo) was introduced to support AB 1753 (Carrillo) to make it unlawful to provide legal advice or services related to any immigration matter for anyone who is not an attorney or authorized by federal law.

The Resolution states that AB 1753 prohibits individuals from acting in the capacity of an immigration consultant unless that person is an attorney or authorized by federal law to represent persons before the Board of Immigration Appeals (BIA). The Resolution also states that the bill expands the definition of "immigration matter" to include proceedings, filings, and actions issued by the U.S. Department of Justice, U.S. Department of Homeland Security, and the BIA.

The Resolution notes that the Los Angeles District Attorney recently announced the convictions of several suspects in various immigration service scams that victimized more than 300 immigrants; and that eight major criminal cases for crimes such as grand theft, extortion, perjury, and forgery related to immigration fraud have been prosecuted since 2017.

The Resolution further notes that "notarios" prey on the immigrant community and often misrepresent themselves as attorneys and collect excessively high fees for legal services that they are not authorized to provide.

Lastly, the Resolution states that the City previously adopted a Motion (Martinez-Cedillo) relative to combating immigration fraud by unscrupulous individuals who pose as attorneys to prey, manipulate, and rob individuals who are seeking to comply with federal immigration law. Therefore, the Resolution recommends support of AB 1753.

BACKGROUND

The California Immigration Consultants Act (ICA) regulates non-attorneys engaged in immigration form preparation and authorizes them to complete immigration forms under certain conditions, while imposing a number of affirmative requirements on "immigration consultant" form preparers. Immigration Consultants are defined as "persons who provide non-legal assistance or advice in an immigration matter." Immigration Consultants are prohibited from providing legal advice or services that attorneys perform. Enforcement of the ICA relies largely on individual complaints. This process, however, prevents immigrants from reporting fraud as they fear that reporting will expose their undocumented status. In many cases, victims do not discover the fraud until years later.

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AB 1753

On May 22, 2019, a Resolution (Martinez-Cedillo) was introduced to support AB 1753 (Carrillo) to make it unlawful to provide legal advice or services related to any immigration matter for anyone who is not an attorney or authorized by federal law. AB 1753 provides as follows:

- Beginning January 1, 2020, the Secretary of State shall notify current immigration consultants of the new prohibition.
- Beginning January 1, 2021, it will be unlawful for a person who is not an attorney or is not authorized by the BIA to provide legal immigration consultant services.
- The definition of immigration matter is expanded to include proceedings, filings, and actions arising pursuant to the U.S. Department of Justice, the U.S. Department of Homeland Security, and the Board of Immigration Appeals.
- By January 1, 2021 the Secretary of State shall develop an internet website that includes information related to immigration services in California, including information about persons recognized or accredited as authorized providers of immigration services.
- Beginning January 1, 2021, notaries public would not be allowed to file applications for the Deferred Action for Childhood Arrivals (DACA) program.

Support of AB 1753 is consistent with previous Council actions intended to combat immigration consultant fraud, including ongoing discussions with County of Los Angeles representatives and other actions as shown below:

Resolution (Martinez-Ryu; C.F. 17-0002-S85)

On June 30, 2017, the City Council adopted Resolution (Martinez-Ryu) to support AB 638 (Caballero) which would provide that attorneys and organizations accredited by the Executive Office of Immigration Review would be the only individuals allowed to charge fees. AB 638 passed the Assembly but failed to pass the Senate.

Motion (Martinez-Cedillo; C.F. 16-1064)

In September 2016, the City Council adopted Motion (Martinez-Cedillo) requesting that all immigration consultants operating within the City boundaries comply with the provisions of the California Immigration Consultants Act (ICA). The Motion also instructed City staff to report on the feasibility of developing an immigration consultant permit and requiring all immigration consultants, including a system of investigation, monitoring and enforcement as well as administrative penalties, fines and notices to combat immigration services fraud.

In response to this Motion, this office met with the City Attorney's Office and County officials to determine the best approach given the existing role of the County with respect to enforcement and prosecution of immigration consultant fraud.

Our Office will continue to work with County officials and community organizations to provide the Council with an update once the Legislature votes on AB 1753.

Conclusion

Officials from the County of Los Angeles Department of Consumer Affairs, Office of Immigrant Affairs, have indicated that given the failed passage AB 638, the County is now looking forward to the passage of AB 1753 which, in addition to defining who is authorized to provide immigration consultant services, establishes clear and accessible procedures for victims and others to report immigration services fraud to state and local consumer protection agencies.

This Office will continue to meet with County officials, monitor state legislation, and report to Council with an update once the Legislature votes on AB 1753. Given the current efforts pursued by the City and County of Los Angeles to combat immigration consultant fraud it is recommended that the Council support AB 1753

AB 1753 Bill Status

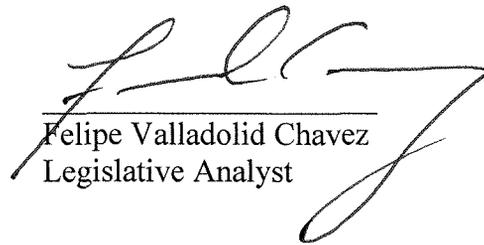
Introduced

February 22, 2019

Passed Assembly

May 29, 2019

Pending in Senate Committee on Rules



Felipe Valladolid Chavez
Legislative Analyst

SMT:fvc

Attachment: Resolution (Martinez-Cedillo)

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations, or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, existing law prohibits individuals from acting in the capacity of an immigration consultant unless that person is an attorney or authorized by federal law to represent persons before the Board of Immigration Appeals (BIA); and

WHEREAS, on February 22, 2019, Assembly Bill (AB) 1753 (Carrillo) was introduced to make it unlawful for anyone who is not an attorney, or authorized by federal law, to provide legal advice or services related to any "immigration matter;" and

WHEREAS, the bill expands the definition of "immigration matter" to include proceedings, filings, and actions issued by the United States Department of Justice, the United States Department of Homeland Security, and the Board of Immigration Appeals; and

WHEREAS, the bill would require the development of a website that would include information related to immigration services available in California; and

WHEREAS, the Los Angeles District Attorney recently announced the convictions of several suspects in various immigration service scams that victimized more than 300 immigrants; and

WHEREAS, the District Attorney also announced that eight major criminal cases for crimes such as grand theft, extortion, perjury and forgery related to immigration fraud have been prosecuted since 2017; and

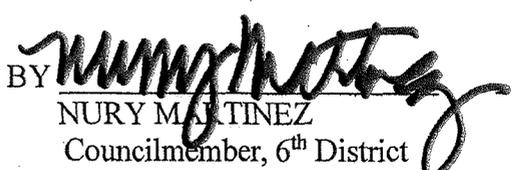
WHEREAS, "notarios" prey on the immigrant community and often misrepresent themselves as attorneys and collect excessively high fees for legal services that they are not authorized to provide; and

WHEREAS, the City of Los Angeles previously adopted a Motion (Martinez-Cedillo) relative to combating immigration fraud by unscrupulous individuals who pose as attorneys to prey, manipulate, and rob our community who are seeking to comply with federal immigration laws; and

WHEREAS, there are local efforts addressing the issue of "notario" fraud, a statewide policy would greatly benefit this vulnerable population;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2019-2020 State Legislative Program SUPPORT of AB 1753 to make it unlawful to provide legal advice or services related to any immigration matter for anyone who is not an attorney or authorized by federal law.

PRESENTED BY


NURY MARTINEZ
Councilmember, 6th District

SECONDED BY



MAY 22 2019

19-0002-595