

THE STRENGTHENING IMMIGRATION PROCEDURES ACT

The Strengthening Immigration Procedures Act would promote due process, ensure consistency in federal immigration proceedings, increase fairness, and reduce paperwork by removing unnecessary burdensome filing requirements. Currently, some noncitizens must first file a state bar complaint against their prior immigration attorney in order to seek an appeal of their immigration case, even though they are legally entitled to seek such an appeal. This requirement applies exclusively to immigration matters and results in more red tape and delays in due process, ultimately denying access to justice for noncitizens.

This bill takes the existing ineffective assistance of counsel standard articulated by the Supreme Court in the 1984 decision in *Strickland v. Washington*, and applies that standard to all immigration matters, overturning the Board of Immigration Appeals (BIA)'s 1988 interpretation of such claims in *Matter of Lozada*. The bill does not create new due process rights, nor does the bill provide new pathways of appeal by noncitizens. This narrowly tailored and commonsense bill merely ensures consistency and fairness across the United States for claims alleging ineffective assistance of counsel, by using the standard that has been in place for nearly 40 years in nearly all other matters.

The bill would:

- Align ineffective assistance of counsel claims in immigration matters to the national standards articulated by the Supreme Court in *Strickland v Washington* (the bill does not change the underlying *Strickland* standard).
- Create parity and reduce confusion by ensuring that the same standard for ineffective assistance of counsel claims is used nationwide, irrespective of the type of legal proceeding.
- Remove unfair and burdensome barriers to seeking an appeal that a noncitizen is already legally entitled to seek.
- Reduce paperwork and other unnecessary bureaucratic red tape by streamlining and aligning the standards used across the United States, encouraging fairness for practitioners and noncitizens alike.
- Promote consistency across the Circuits by codifying the same standard that courts should use to assess these types of allegations.

The bill is endorsed by the American Immigration Lawyers Association (AILA)