



SB 852 (Rubio): Probation

Bill Summary

SB 852 will prohibit Immigration and Customs Enforcement (ICE) officers from relying on and exploiting a person's probation status when conducting home enforcement operations.

Current Law

Under existing California law, the terms and conditions of parole limit "searches and seizures" to be conducted "by a probation or parole officer or other peace officer" (Cal. Pen. Code § 3067(b)(3)). In 2017, the California Legislature clarified that ICE officers are not California peace officers (Cal. Pen. Code § 830.85). However, California Penal Code Section 1203, which governs the rules of probation, does not similarly limit searches to probation officers or peace officers.

Background

In practice, the absence of limitation on who can conduct probation searches has allowed ICE officers to target individuals on probation for enforcement operations. While conducting enforcement operations, ICE officers commonly employ a "probation ruse" wherein they represent themselves as probation officers or claim that they are conducting a probation check. Individuals who are on probation typically have no choice but to comply with officers' requests because the terms of their probation require them to permit probation officers to access their homes and persons. Once ICE officers have lured an individual outside or they have gained entry into the home, they reveal their identities as immigration officers.

These unlawful ruse tactics allow ICE to abuse the diminished rights of probationers. ICE will either claim they have the authority to enter the home (as a law enforcement officer), or demand someone exit their home because they are on probation.

Under current law, ICE officers likely aren't authorized to exploit probation in this manner (because the existing definition of "peace officer" should apply to all probation sentences). ICE regularly exploits the ambiguity between "law enforcement officer" and "peace officer" in regard to

probation in order to arrest probationers using methods that would be unconstitutional if used on non-probationers.

In the Los Angeles area of responsibility, ICE has conducted at least 19,000 "at-large" arrests from 2014 to 2021. A sizable number of these arrests occur at residences. The community as a whole, but particularly the Latine community, has or may be impacted by ICE's unlawful ruse tactics, including the use of probation ruses.

Details of the Bill

SB 852 amends Penal Code Section 1203 by adding a provision specifying that probation searches can only be conducted by probation officers or peace officers.

Support

ACLU California Action (*Sponsor*)

For More Information

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TALKING POINTS - SB 852 (Rubio)

ICE officers should not be allowed to rely on and exploit a person's probation status when conducting home enforcement operations.

- ACLU has sued to challenge ICE's unlawful "ruse" tactics during home enforcement operations.
- In these ruses, ICE officers represent themselves as California probation officers or claim they are conducting a probation check. Once the individual is lured outside or the officers have gained entry to the home, they reveal their identities as immigration officers.
- In some cases, officers have worn clothing that obscures the ICE emblem during their initial interaction with the individual to deliberately hide their identities and misrepresent themselves as police or probation officers.

The Latine community has been disproportionately impacted by ICE's unlawful ruse tactics.

- In what ICE calls its Los Angeles "Area of Responsibility," ICE has conducted at least 19,000 at-large arrests from 2014-2021, many of which occurred at residences.
- These arrests can lead to immigration consequences that tear families apart and harm an individual's ability to work or rebuild their lives after a conviction.

SB 852 specifies that probation searches can only be conducted by probation officers or peace officers.

- California law already prevents ICE officers from impersonating *parole* officers. This bill will simply update the *probation* search statute so that individuals on probation are protected from ICE ruses to the same extent as individuals on parole.
- Currently there is no explicit limitation on who can conduct probation searches.
- ICE regularly exploits the ambiguity between "law enforcement officer" and "peace officer" to arrest people on probation using methods that would normally be unconstitutional.