



# STATE OF MINNESOTA

OFFICE OF THE ATTORNEY GENERAL

102 STATE CAPITOL  
ST. PAUL, MN 55155  
TELEPHONE: (651) 296-6196

**KEITH ELLISON**  
ATTORNEY GENERAL

February 6, 2019

Re: HF739 Post-Conviction

Chair Mariani and Members of the House Public Safety and Criminal Justice Reform Finance and Policy Division:

This legislation addresses issues that arise from the U.S. Supreme Court decision in Padilla v. Kentucky, 559 U.S. 356 (2010). In a 7-2 decision, the High Court found that defense counsel has a duty under the Sixth Amendment of the U.S. Constitution to tell non-citizen defendants about the consequences of a conviction on deportation. The defendant, Mr. Padilla, had been a legal permanent resident of the United States for more than 40 years. His attorney told him not to worry about deportation because he had lived in the U.S. for so long, so Mr. Padilla pleaded guilty. Mr. Padilla was then ordered deported based on his attorney's mistaken advice. In Padilla, the Supreme Court noted that federal immigration law had dramatically expanded the grounds for deportation at the same time as it had restricted immigration judges' ability to exercise discretion to alleviate the harsh consequences of deportation.

Today, in Minnesota and across the U.S., Padilla is a mandatory doctrine that courts, prosecutors, and defense counsel must account for if charges could trigger deportation consequences. This bill seeks to clarify when and how Padilla may be available, especially for those cases and collateral consequences that arose prior to 2010, often after years or decades have passed. HF739 raises important issues that are proper for Minnesota's legislative and justice partners to evaluate. The Minnesota Attorney General's office is committed to engaging with its stakeholders to examine both this bill and Padilla's application in Minnesota.

Thank you for your consideration,

A handwritten signature in blue ink that reads "Keith Ellison".

Keith Ellison  
Attorney General