



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB1610

Introduced 2/15/2019, by Sen. Elgie R. Sims, Jr.

SYNOPSIS AS INTRODUCED:

725 ILCS 5/113-8

Amends the Code of Criminal Procedure of 1963. Provides that if the defendant is arraigned on or after the effective date of the amendatory Act and the court fails to advise the defendant before the acceptance of a plea of guilty, guilty but mentally ill, or nolo contendere to a misdemeanor or felony offense of the consequences of the defendant's plea, if an alien, and the defendant shows that conviction of the offense to which the defendant pleaded guilty, guilty but mentally ill, or nolo contendere may have the consequence for the defendant of deportation, exclusion from admission to the United States, or denial of naturalization under the laws of the United States, the court, upon the defendant's motion, shall vacate the judgment and permit the defendant to withdraw the plea of guilty, guilty but mentally ill, or nolo contendere and enter a plea of not guilty. Provides that the motion shall be filed within 2 years of the date of the defendant's conviction.

LRB101 03961 SLF 48969 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 113-8 as follows:

6 (725 ILCS 5/113-8)

7 Sec. 113-8. Advisement concerning status as an alien.

8 (a) Before the acceptance of a plea of guilty, guilty but
9 mentally ill, or nolo contendere to a misdemeanor or felony
10 offense, the court shall give the following advisement to the
11 defendant in open court:

12 "If you are not a citizen of the United States, you are
13 hereby advised that conviction of the offense for which you
14 have been charged may have the consequence ~~consequences~~ of
15 deportation, exclusion from admission to the United States, or
16 denial of naturalization under the laws of the United States."

17 (b) If the defendant is arraigned on or after the effective
18 date of this amendatory Act of the 101st General Assembly, and
19 the court fails to advise the defendant as required by
20 subsection (a) of this Section, and the defendant shows that
21 conviction of the offense to which the defendant pleaded
22 guilty, guilty but mentally ill, or nolo contendere may have
23 the consequence for the defendant of deportation, exclusion

1 from admission to the United States, or denial of
2 naturalization under the laws of the United States, the court,
3 upon the defendant's motion, shall vacate the judgment and
4 permit the defendant to withdraw the plea of guilty, guilty but
5 mentally ill, or nolo contendere and enter a plea of not
6 guilty. The motion shall be filed within 2 years of the date of
7 the defendant's conviction.

8 (Source: P.A. 93-373, eff. 1-1-04.)