

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 adding Section 113-8 as follows:

6 (725 ILCS 5/113-8 new)

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

8 (a) Before the acceptance of a plea of guilty, guilty
9 but mentally ill, or nolo contendere to a misdemeanor or
10 felony offense, the court shall give the following advisement
11 to the 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 consequences of deportation,
15 exclusion from admission to the United States, or denial of
16 naturalization under the laws of the United States."

17 (b) Upon the defendant's request, the court shall allow
18 the defendant additional time to consider the appropriateness
19 of the plea in light of the advisement described in
20 subsection (a). If the defendant is arraigned on or after
21 the effective date of this amendatory Act of the 93rd General
22 Assembly and the court fails to advise the defendant as
23 required by subsection (a) of this Section and the defendant
24 shows that conviction of the offense to which the defendant
25 pleaded guilty, guilty but mentally ill, or nolo contendere
26 may have the consequences for the defendant of deportation,
27 exclusion from admission to the United States, or denial of
28 naturalization under the laws of the United States, the
29 court, on the defendant's motion, shall vacate the judgment
30 and permit the defendant to withdraw the plea of guilty,
31 guilty but mentally ill, or nolo contendere, and enter a plea

1 of not guilty. Absent a record that the court provided the
2 advisement required by subsection (a) of this Section, the
3 defendant shall be presumed not to have received the required
4 advisement.

5 (c) If the defendant is arraigned before the effective
6 date of this amendatory Act of the 93rd General Assembly, a
7 court's failure to provide the advisement required by
8 subsection (a) of this Section does not require the vacation
9 of judgment and withdrawal of the plea or constitute grounds
10 for finding a prior conviction invalid. Nothing in this
11 subsection (c) prohibits a court, in the sound exercise of
12 its discretion, from vacating a judgment and permitting a
13 defendant to withdraw a plea.

14 (d) At the time of the plea no defendant shall be
15 required to disclose his or her legal status to the court.