

1 AN ACT to amend the Code of Criminal Procedure of 1963 by  
2 adding Section 113-8.

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

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

7 (725 ILCS 5/113-8 new)

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

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

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

18 (b) Upon the defendant's request, the court shall allow  
19 the defendant additional time to consider the appropriateness  
20 of the plea in light of the advisement described in  
21 subsection (a). If the defendant is arraigned on or after  
22 the effective date of this amendatory Act of the 92nd General  
23 Assembly and the court fails to advise the defendant as  
24 required by subsection (a) of this Section and the defendant  
25 shows that conviction of the offense to which defendant  
26 pleaded guilty, guilty but mentally ill, or nolo contendere  
27 may have the consequences for the defendant of deportation,  
28 exclusion from admission to the United States, or denial of  
29 naturalization under the laws of the United States, the  
30 court, on the defendant's motion, shall vacate the judgment  
31 and permit the defendant to withdraw the plea of guilty,

1 guilty but mentally ill, or nolo contendere, and enter a plea  
2 of not guilty. Absent a record that the court provided the  
3 advisement required by subsection (a) of this Section, the  
4 defendant shall be presumed not to have received the required  
5 advisement.

6 (c) If the defendant is arraigned before the effective  
7 date of this amendatory Act of the 92nd General Assembly, a  
8 court's failure to provide the advisement required by  
9 subsection (a) of this Section does not require the vacation  
10 of judgment and withdrawal of the plea or constitute grounds  
11 for finding a prior conviction invalid. Nothing in this  
12 subsection (c) prohibits a court, in the sound exercise of  
13 its discretion, from vacating a judgment and permitting a  
14 defendant to withdraw a plea.

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