
A BILL FOR AN ACT

RELATING TO COURT ADVISEMENT CONCERNING ALIEN STATUS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 802E-2, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "~~§~~802E-2~~§~~ Court advisement concerning alien status
4 **required.** (a) At a defendant's arraignment and plea hearing
5 for an offense punishable as a crime under state law, except
6 offenses designated as infractions under state law, the court
7 shall administer the following advisement on the record to the
8 defendant:

9 If you are not a citizen of the United States, whether or
10 not you have lawful immigration status, you have the right
11 to receive advice from your attorney about the specific
12 impact that this case will have, if any, on your
13 immigration status. The entry of a guilty or nolo
14 contendere plea, admission of guilt or sufficient facts, or
15 conviction, deferred judgment or deferred sentence, may
16 have the consequences of your immediate detention,
17 deportation, exclusion from admission to the United States,
18 or denial of naturalization pursuant to the laws of the



1 United States. In some cases, detention and deportation
2 from the United States will be required. Your lawyer must
3 investigate and advise you about these issues prior to the
4 commencement of trial, entry of a plea of guilty or nolo
5 contendere, or admission of guilt or sufficient facts to
6 any offense. You are not required to disclose your
7 immigration or citizenship status to the court.

8 (b) Prior to [acceptance] the commencement of trial or a
9 defendant's entry of a plea of guilty or nolo contendere to any
10 offense punishable as a crime under state law, except offenses
11 designated as infractions under state law, the court shall
12 administer the following advisement on the record to the
13 defendant:

14 If you are not a citizen of the United States, whether or
15 not you have lawful immigration status, you are hereby
16 advised that a plea of guilty or nolo contendere, admission
17 of guilt or sufficient facts, deferred plea or sentence, or
18 a conviction of the offense for which you have been charged
19 may have the consequences of your immediate detention,
20 deportation, exclusion from admission to the United States,
21 or denial of naturalization pursuant to the laws of the
22 United States. In some cases, detention and deportation



1 from the United States will be required. Your lawyer must
2 investigate and advise you about these issues prior to the
3 commencement of trial, entry of a plea of guilty or nolo
4 contendere, or admission of guilt or sufficient facts to
5 any offense. Upon request, the court will allow you and
6 your lawyer additional time to consider your decision to
7 enter a plea or commence with trial in light of this
8 advisal. You are not required to disclose your immigration
9 or citizenship status to the court.

10 ~~[Upon request, the court shall allow the defendant~~
11 ~~additional time to consider the appropriateness of the plea in~~
12 ~~light of the advisement as described in this section.]"~~

13 SECTION 2. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 3. This Act shall take effect on July 1, 2013.



Report Title:

Judiciary; No Contest Plea; Guilty Plea; Alien; Criminal Defendants

Description:

Requires the court to advise a criminal defendant of the effects of a guilty or no contest plea on alien status at the defendant's arraignment and plea hearing, and again prior to the entry of a guilty or no contest plea or the commencement of trial. Effective July 1, 2013. (HB1059 HD2)

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