



Legislation Text

File #: Res 0240-2002, **Version:** *

Res. No. 240

Resolution supporting Assembly bill A.07082, which would amend the Criminal Procedure Law to require that, prior to the acceptance of a guilty plea, New York State courts advise individuals, who are not United States citizens, that a plea of guilty may result in deportation, exclusion from admission to the United States, or denial of naturalization.

By Council Members Martinez, Clarke, Stewart, Barron, Comrie, Dilan, Fidler, Foster, Jackson, Monserrate, Reed, Reyna, Rivera, Sanders and Seabrook; also Council Member Liu

Whereas, In many instances involving an individual who is not a citizen of the United States and who is charged with a crime under state law, a plea of guilty is entered without the defendant knowing that a conviction of such offense is grounds for deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States; and

Whereas, In the interest of fairness, Assembly bill A.07082 requires that, prior to accepting a guilty plea, the court provide an appropriate warning of the special consequences for defendants, who are not United States citizens; and

Whereas, It is the intention of the bill to grant a defendant a reasonable amount of time to negotiate with the prosecutor in the event the defendant or defendant's counsel was unaware of the possibility of deportation, exclusion from admission to the United States, or denial of naturalization as a result of conviction; and

Whereas, It is the further intent of the bill that at the time of the plea no defendant shall be required to disclose his or her legal status to the court; and

Whereas, Prior to the acceptance of a guilty plea, Assembly bill A.07082 would entitle a defendant to substantially the following oral advisement to be administered on the record: "If you are not a citizen of the United States, you are hereby advised that acceptance by the court of a plea of guilty or conviction of the crime for which you have been charged may result in your deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States;" and

Whereas, Absent a record that the court provided the advisement the defendant shall be presumed, under Assembly bill A.07082, not to have received it; and

Whereas, It is just and fair that defendants, who are not citizens of the United States, are made aware of the significant consequences of pleading guilty prior to their doing so; now, therefore, be it

Resolved, That the Council of the City of New York supports Assembly bill A.07082, which would amend the Criminal Procedure Law to require that, prior to the acceptance of a guilty plea, New York State courts advise individuals, who are not United States citizens, that a plea of guilty may result in deportation, exclusion from admission to the United States, or denial of naturalization.