



# Senate

General Assembly

**File No. 551**

January Session, 2003

Senate Bill No. 953

*Senate, April 28, 2003*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

***AN ACT CONCERNING THE IMMIGRATION CONSEQUENCES OF PLEAS OF GUILTY OR NOLO CONTENDERE.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 54-1j of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) The court shall not accept a plea of guilty or nolo contendere  
4 from any defendant in any criminal proceeding unless the court  
5 [advises him of the following: "If you are not a citizen of the United  
6 States, you are hereby advised that conviction of the offense for which  
7 you have been charged may have the consequences of deportation,  
8 exclusion from admission to the United States, or denial of  
9 naturalization, pursuant to the laws of the United States."] first  
10 addresses the defendant personally and determines that the defendant  
11 fully understands that if the defendant is not a citizen of the United  
12 States, conviction of the offense for which the defendant has been  
13 charged may have the consequences of deportation or removal from

14 the United States, exclusion from readmission to the United States or  
 15 denial of naturalization, pursuant to the laws of the United States. If  
 16 the defendant has not discussed these possible consequences with the  
 17 defendant's attorney, the court shall permit the defendant to do so  
 18 prior to accepting the defendant's plea.

19 (b) The defendant shall not be required at the time of the plea to  
 20 disclose [his] the defendant's legal status in the United States to the  
 21 court.

22 (c) If the court fails to [advise a defendant] address the defendant  
 23 personally and determine that the defendant fully understands the  
 24 possible consequences of the defendant's plea, as required in  
 25 subsection (a) of this section, and the defendant not later than three  
 26 years after the acceptance of the plea shows that [his] the defendant's  
 27 plea and conviction may have one of the enumerated consequences,  
 28 the court, on the defendant's motion, shall vacate the judgment, and  
 29 permit the defendant to withdraw the plea of guilty or nolo  
 30 contendere, and enter a plea of not guilty.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>

**JUD**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:**

<b>Agency Affected</b>	<b>Fund-Type</b>	<b>FY 04 \$</b>	<b>FY 05 \$</b>
Judicial Dept.; Pub. Defender Serv. Com.; Criminal Justice, Div.	GF - None	None	None

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill specifies that the court must ascertain affirmatively that a defendant understands the possible immigration consequences of pleas of guilty or nolo contendere. The bill generally conforms statute to current practice and, thus, any workload increase to the Judicial Department would be minor. It could decrease the caseload of the Judicial Department, Office of Chief Public Defender and Chief State's Attorney by reducing the number of habeas corpus petitions brought before the court alleging involuntary pleas. There are no fiscal impacts associated with these workload/caseload changes.

**OLR Bill Analysis**

SB 953

***AN ACT CONCERNING THE IMMIGRATION CONSEQUENCES OF PLEAS OF GUILTY OR NOLO CONTENDERE*****SUMMARY:**

This bill expands a judge's responsibility to advise a criminal defendant of potential consequences of pleading guilty or no contest. It requires judges, before they accept a guilty or no contest plea, to address criminal defendants personally and determine whether they fully understand the immigration consequences of such pleas. Judges must permit defendants to talk to their lawyers about this if they have not already done so. Current law requires these judges only to advise defendants that, if they are not U.S. citizens, conviction for the charged offense may lead to deportation, exclusion from admission to the United States, or denial of naturalization.

The bill gives defendants the same rights to have their conviction vacated and change their pleas to not guilty based on the court's failure to personally address them as they currently have when the court fails to advise them about potential adverse immigration consequences. By law, defendants must (1) raise this issue within three years of the court's acceptance of their plea and (2) show that it adversely affected their immigration status.

EFFECTIVE DATE: October 1, 2003

**BACKGROUND*****Immigration Consequences of Convictions***

Federal immigration law makes resident aliens convicted of aggravated felonies or virtually any violation of controlled substance laws deportable. Until 1996, aliens meeting certain statutory criteria could apply to the Immigration and Naturalization Service (INS, recently renamed the Bureau of Citizenship and Immigration Services) for a discretionary waiver of deportation. Immigration judges were required to balance adverse factors evidencing an alien's undesirability

as a permanent resident with the social and humane considerations he presented. The INS granted most of the waiver requests filed between 1989 and 1995.

Changes in the federal law in 1996 severely limited INS discretion to cancel deportations, eliminating it completely for those convicted of aggravated felonies. The new immigration provisions apply to aliens entering guilty pleas on or after April 1, 1997.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Report  
Yea 41 Nay 0