



Memorandum in Support

NYSBA #48

April 8, 2026

A.694

By: M of A Cruz

Assembly Committee: Codes

Effective Date: 90th day after it shall have become law

AN ACT to amend the criminal procedure law, in relation to requiring the court, prior to accepting a plea, to advise the defendant of the risk of deportation if such defendant is not a citizen.

THE NEW YORK STATE BAR

ASSOCIATION SUPPORTS THIS LEGISLATION

The Court Notification Bill would enact standardized court notification language so that judges would not provide legal advice to criminal court defendants, but instead reinforce defense counsel’s duty to provide individualized advice to their clients. The notification would also provide an additional opportunity for individuals to learn of the possibility of immigration consequences resulting from a plea.

Deportation is a near-certain result of a broad range of criminal convictions due to the entangled nature of the immigration and criminal legal systems.¹ The New York State Bar Association’s 2021 Report by the Committee on Immigration Representation, Committee on Legal Aid and Committee on Mandated Representation discusses the many consequences, including deportation, that can result for immigrants who have contact with the criminal system.² The importance of reliable and accurate information for noncitizens accused of criminal offenses has never been more important. Attorneys who meet their duty to advise on immigration consequences can resolve cases or negotiate pleas that minimize the likelihood of deportation and preserve future eligibility for status or citizenship. Unfortunately, due to the ever evolving and complex nature of immigration law, many New Yorkers do not receive accurate legal advice regarding the consequences of a conviction in a criminal case, which can be the result even if they are documented, including having a lawful permanent residence (a “green card”).

New York recognizes that due process requires that a trial court apprise a noncitizen defendant of the penalty of deportation as a direct consequence of a guilty plea to a felony, given that

¹ *Padilla v. Kentucky*, 559 U.S. 356, 360-61 (2010).

² A Report from the Committee on Immigration Representation, Committee on Legal Aid, and Committee on Mandated Representation, October 2021, [Committee-on-Immigration-Rep-COLA-Mandated-Rep-and-Criminal-Justice-Section-ABA-103B-web-APPROVED.pdf](#)

failure to adequately notify the defendant may affect the validity of the defendant's plea.³ New York State courts recognize that deportation is a plea consequence of such tremendous importance and grave impact that a defendant is entitled to notice that it may result from a plea. Despite this mandate, trial court delivery of such notice is often inconsistent and unreliable. In practice, pleas to misdemeanors can also pose a grave risk of adverse immigration consequences; however, New York's case law on the matter thus far only addresses felony pleas.⁴ The lack of adequate information in this context is particularly troubling considering that the vast majority of convictions in New York State are resolved based on the plea-bargaining process.⁵

Although the New York State Legislature enacted CPL§ 220.50 (7) requiring that a court inform a non-citizen defendant that a guilty plea may subject the defendant to deportation, little guidance is offered in statute or case law to properly address this complex legal issue. Courts are suggested to either provide a "short, straightforward statement" on the record notifying the defendant of possible deportation consequences or reciting an admonition contained in CPL § 220.50 (7). However, these suggestions "are illustrative, not exhaustive, of potentially acceptable advisements regarding deportation."⁶ As a result, a myriad of plea colloquies are introduced by courts across the state attempting to meet due process requirements.

The Court Notification Bill would address these issues, ensuring standardized language for plea colloquies and providing additional assurances that immigrants will be aware of the immigration consequences of their pleas.

Based on the foregoing, the New York State Bar Association **SUPPORTS** the enactment of this legislation.

³ *People v. Peque*, 22 N.Y.3d 168, 176 (2013).

⁴ *Peque*, 22 N.Y.3d at 197.

⁵ "By one estimate, a criminal case is disposed of by plea bargaining every two seconds during a typical work day in America." Ram Subramanian, Léon Digard, Melvin Washington II, and Stephanie Sorage, *In the Shadows: A Review of the Research on Plea Bargaining*, Vera Institute of Justice, Sept. 2020 (citing Joseph A. Colquitt, "Ad Hoc Plea Bargaining," *Tulane Law Review* 75, no. 3 (2001), 695, 696).

⁶ *Peque*, 22 N.Y.3d at 184.