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2345

2013-2014 Regular Sessions

I N   A S S E M B L Y

January 14, 2013
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Introduced by M. of A. RODRIGUEZ -- read once and referred to the
  Committee on Codes

AN ACT to amend the criminal procedure law, in relation to requiring the
  court, prior to accepting a plea to a misdemeanor or violation, to
  advise the defendant of the risk of deportation if he or she is not a
  citizen

  THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

 1   Section 1. Section 340.20 of the criminal procedure law is amended by
 2 adding a new subdivision 5 to read as follows:
 3   5. PRIOR TO ACCEPTING A DEFENDANT'S PLEA OF GUILTY TO A COUNT OR
 4 COUNTS OF AN INFORMATION, AS DEFINED BY SUBDIVISION ONE OF SECTION
 5 340.10 OF THIS ARTICLE, CHARGING A MISDEMEANOR, AS DEFINED IN SUBDIVI-
 6 SION TWO OF SECTION 55.10 OF THE PENAL LAW, OR A VIOLATION, AS DEFINED
 7 BY SUBDIVISION THREE OF SECTION 55.10 OF THE PENAL LAW, THE COURT SHALL
 8 ADVISE THE DEFENDANT THAT IF THE DEFENDANT IS NOT A CITIZEN OF THE
 9 UNITED STATES, THE DEFENDANT'S PLEA OF GUILTY AND THE COURT'S ACCEPTANCE
10 THEREOF MAY RESULT IN THE DEFENDANT'S DEPORTATION OR REMOVAL, EXCLUSION
11 FROM ADMISSION TO THE UNITED STATES OR DENIAL OF NATURALIZATION PURSUANT
12 TO THE LAWS OF THE UNITED STATES. IN ADDITION, THE COURT SHALL, PRIOR TO
13 ACCEPTING SUCH PLEA, ADVISE THE DEFENDANT THAT, IF THE DEFENDANT IS NOT
14 A CITIZEN OF THE UNITED STATES AND IS OR BECOMES THE SUBJECT OF A FINAL
15 ORDER OF REMOVAL ISSUED BY THE UNITED STATES IMMIGRATION AND CUSTOMS
16 ENFORCEMENT, THE DEFENDANT MAY BE RELEASED TO THE CUSTODY OF THE IMMI-
17 GRATION AND CUSTOMS ENFORCEMENT FOR REMOVAL PURPOSES AS A RESULT OF THE
18 DEFENDANT'S PLEA OF GUILTY. THE COURT SHALL, CONTEMPORANEOUS WITH THE
19 PLEA, AFFIRM ON THE RECORD OR IN A WRITING THAT THE DEFENDANT HAS BEEN
20 GIVEN THE NOTICE REQUIRED BY THIS SUBDIVISION.
21   S 2. This act shall take effect on the ninetieth day after it shall
22 have become a law.

     EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
                      [ ] is old law to be omitted.
                                                          LBD00211-02-3