

**First Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 09-0153.01 Michael Dohr

HOUSE BILL 09-1049

HOUSE SPONSORSHIP

May,

SENATE SPONSORSHIP

Harvey,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING A PROHIBITION ON ACCEPTING A PLEA OF GUILTY FROM**
102 **AN ILLEGAL ALIEN THAT WILL RESULT IN AVOIDING REMOVAL**
103 **FROM THIS COUNTRY.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Prohibits a trial judge from accepting a plea of guilty from a defendant who is illegally present in the country if the result of the plea would be to permit the defendant to avoid removal from this country.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 16-7-302, Colorado Revised Statutes, is amended
3 BY THE ADDITION OF A NEW SUBSECTION to read:

4 **16-7-302. Responsibilities of the trial judge with respect to**
5 **plea discussions and agreements.** (4) (a) TO ENSURE PUBLIC SAFETY,
6 A TRIAL JUDGE SHALL NOT ACCEPT A PLEA OF GUILTY:

7 (I) FROM A DEFENDANT WHO IS IN VIOLATION OF THE FEDERAL
8 "IMMIGRATION AND NATIONALITY ACT", 8 U.S.C. SEC. 1325, AS
9 AMENDED;

10 (II) TO A CHARGE OF THIRD DEGREE CRIMINAL TRESPASS ON
11 AGRICULTURAL LAND OR ANY OTHER CHARGE; AND

12 (III) IF THE PLEA OF GUILTY IS MADE AS A RESULT OF A PLEA OFFER
13 AND WILL RESULT IN THE DEFENDANT AVOIDING REMOVAL FROM THIS
14 COUNTRY BY THE UNITED STATES IMMIGRATION AND CUSTOMS
15 ENFORCEMENT AGENCY.

16 (b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF
17 THIS SUBSECTION (4) THE TRIAL JUDGE MAY ACCEPT A PLEA OF GUILTY TO
18 A CHARGE OF THIRD DEGREE CRIMINAL TRESPASS ON AGRICULTURAL LAND
19 OR ANY OTHER CHARGE UPON A GOOD FAITH REPRESENTATION BY THE
20 PROSECUTING ATTORNEY THAT:

21 (I) THE ATTORNEY COULD NOT ESTABLISH A PRIMA FACIE CASE IF
22 THE DEFENDANT WERE BROUGHT TO TRIAL ON THE ORIGINAL OFFENSE;
23 AND

24 (II) THE PLEA OFFER IS NOT INTENDED TO PERMIT THE DEFENDANT
25 TO AVOID REMOVAL FROM THIS COUNTRY.

26 **SECTION 2. Safety clause.** The general assembly hereby finds,

- 1 determines, and declares that this act is necessary for the immediate
- 2 preservation of the public peace, health, and safety.