

22-3210. Plea of guilty or nolo contendere; time limitation. (a) Before or during trial a plea of guilty or nolo contendere may be accepted when:

(1) The defendant or counsel for the defendant enters such plea in open court; and
(2) in felony cases the court has informed the defendant of the consequences of the plea, including the specific sentencing guidelines level of any crime committed on or after July 1, 1993, and of the maximum penalty provided by law which may be imposed upon acceptance of such plea; and

(3) in felony cases the court has addressed the defendant personally and determined that the plea is made voluntarily with understanding of the nature of the charge and the consequences of the plea; and

(4) the court is satisfied that there is a factual basis for the plea.

(b) In felony cases the defendant must appear and plead personally and a verbatim record of all proceedings at the plea and entry of judgment thereon shall be made.

(c) In traffic infraction, cigarette or tobacco infraction and misdemeanor cases the court may allow the defendant to appear and plead by counsel.

(d) (1) A plea of guilty or nolo contendere, for good cause shown and within the discretion of the court, may be withdrawn at any time before sentence is adjudged.

(2) To correct manifest injustice the court after sentence may set aside the judgment of conviction and permit the defendant to withdraw the plea.

(e) (1) Any action under subsection (d)(2) must be brought within one year of: (A) The final order of the last appellate court in this state to exercise jurisdiction on a direct appeal or the termination of such appellate jurisdiction; or (B) the denial of a petition for a writ of certiorari to the United States supreme court or issuance of such court's final order following the granting of such petition.

(2) The time limitation herein may be extended by the court only upon an additional, affirmative showing of excusable neglect by the defendant.

History: L. 1970, ch. 129, § 22-3210; L. 1982, ch. 146, § 1; L. 1984, ch. 39, § 39; L. 1994, ch. 291, § 60; L. 1996, ch. 214, § 31; L. 2009, ch. 61, § 1; Apr. 16.