

EXPLANATION OF RIGHTS AND PLEA OF GUILTY

(Non-Habitual Offender – Felony and Misdemeanor – Circuit or District Court)
(FOR OFFENSES COMMITTED BEFORE JUNE 1, 2006)

Case Number

IN THE _____ COURT OF _____, ALABAMA
(Circuit or District) (Name of County)
STATE OF ALABAMA v. _____
Defendant

TO THE ABOVE-NAMED DEFENDANT: The Court, having been informed that you wish to enter a plea of guilty in this case, hereby informs you of your rights as a defendant charged with a criminal offense.

PENALTIES APPLICABLE TO YOUR CASE

You are charged with the crime of _____, which is a Class _____
 Felony Misdemeanor. The Court has been informed that you desire to enter a plea of guilty to this offense or to the crime of _____ which is a felony misdemeanor offense. The sentencing range for the above crime(s) is set out below:

MISDEMEANOR		FELONY	
Class A	Up to one (1) year imprisonment in the county jail, or a fine up to \$2,000, or both.	Class A	Not less than ten (10) years and not more than life or ninety-nine (99) years imprisonment in the state penitentiary, and may include a fine not to exceed \$20,000.
Class B	Up to six (6) months imprisonment in the county jail, or a fine up to \$1,000, or both.	Class B	Not less than two (2) years and not more than twenty (20) years imprisonment in the state penitentiary, and may include a fine not to exceed \$10,000.
Class C	Up to three (3) months imprisonment in the county jail, or a fine not to exceed \$500, or both.	Class C	Not less than one (1) year and one (1) day and not more than ten (10) years imprisonment in the state penitentiary, and may include a fine not to exceed \$5,000.

Multiple Sentences. If you face multiple sentences for multiple crimes, the court may order your sentence for the above crime to run consecutively to or concurrently with the other sentence or sentences.

Court Costs & Crime Victim's Assessment: You will also be ordered to pay the costs of court, which may include the fees of any appointed attorney, fines, fees, assessments, and restitution if there is any. You will also be ordered to pay an additional monetary penalty for the use and benefit of the Alabama Crime Victims Compensation Commission of not less than \$50 and not more than \$10,000 for each felony and not less than \$25 and not more than \$1,000 for each misdemeanor for which you are convicted.

This crime is also subject to the following enhancements or additional penalties as provided by law: (Provisions Checked Apply To Your Case)

- Enhanced Punishment For Use Of Firearm Or Deadly Weapon:** Sections 13A-5-6 (a) (4) and (a) (5), Ala. Code 1975, provide for the enhancement of a punishment for a Class A, B, or C, felony in which a "firearm or deadly weapon was used or attempted to be used in the commission of the felony." This section provides for the following punishments in such events: For the commission of a Class A Felony, a term of imprisonment of not less than 20 years; For the commission of a Class B or C Felony, a term of imprisonment of not less than 10 years.
- Enhanced Punishment for a Felony Criminal Sex Offense Involving a Child:** Sections 13A-5-6 (a) (4) and (a) (5), Ala. Code 1975, provide for the enhancement of a punishment for a Class A or B felony criminal sex offense involving a child under the age of 12 or involving child pornography. These Sections provide for the following punishment in such events: For a Class A felony criminal sex offense, not less than 20 years; For a Class B felony sex offense, not less than 10 years.
- Enhanced Punishment for Drug Sale Near School:** Section 13A-12-250, Ala. Code 1975, provides that any person who is convicted of unlawfully selling any controlled substance within a three (3) mile radius of a public or private school, college, university or other educational institution, must be punished by an additional penalty of five years' imprisonment for each violation.
- Enhanced Punishment for Drug Sale Near Housing Project:** Section 13A-12-270, Ala. Code 1975, provides that any person who is convicted of unlawfully selling any controlled substance within a three (3) mile radius of a public housing project owned by a housing authority must be punished by an additional penalty of five years' imprisonment in a state correctional facility for each violation.
- Enhanced Punishment For Sales Of Controlled Substance To One Under the age of 18:** Section 13A-12-215, Ala. Code 1975, provides that anyone convicted of selling, furnishing or giving away a controlled substance to one who has not yet attained the age of 18 years, shall be guilty of a Class A Felony and the punishment imposed shall not be suspended or probation granted.
- Drug Demand Reduction Assessment Act and Loss of Driving Privileges:** Section 13A-12-281 provides that any person convicted of a violation of Sections 13A-12-202, 13A-12-203, 13A-12-204, 13A-12-211, 13A-12-212, 13A-12-213, 13A-12-215 or 13A-12-231, Ala. Code 1975, shall be assessed an additional penalty of \$1,000 if he or she is a first-time offender or \$2,000 if he or she is a repeat offender under one of these sections. Collection of all or part of the penalty will be suspended if, with court approval, the defendant enters a drug rehabilitation program and if the defendant agrees to pay for a part or all of the program costs. Upon successful completion of the program, the defendant may apply to the court to reduce the penalty by the amount actually paid by him or her for participation in the program. Any suspension of the penalty can be withdrawn by the court if the defendant fails to enroll in or successfully pursue or otherwise fail to complete an approved program. In addition, pursuant to Section 13A-12-214 (unlawful possession of marijuana in the second degree), Section 32-5A-191(a)(3) or Section 32-5A 191(a)(4)(DUI offenses involving drugs), the defendant will lose his or her privilege to drive a motor vehicle for a period of six months, which shall be in addition to any suspension or revocation otherwise provided by law.
- Alcohol/Drug Related Offenses:** A person convicted of an alcohol or drug-related offense will be required to undergo an evaluation for substance abuse. Based upon the results of any such evaluation, he or she will be required to complete the recommended course of education and/or treatment and to pay for the evaluation and any program to which the defendant is referred. Failure to submit to an evaluation or failure to complete any program to which the defendant may be referred will be considered a violation of any probation or parole he or she may be granted. The defendant may also be required to attend monitoring sessions, including random drug and alcohol testing or blood, urine and/or breath tests and to pay a fee for this service. The defendant may request a waiver of part or all of the fees assessed if he or she is indigent or for any portion of time he or she is financially unable to pay. Community service may be ordered by the court in lieu of the monetary payment of fees by an indigent.
- DUI Offenses:** Pursuant to 32-5A-191.4, Code of Alabama 1975, persons convicted of driving under the influence are subject to installation of an ignition interlock device on motor vehicles.
- Drug Possession:** If any person is convicted in any court of this state for drug possession, drug sale, drug trafficking, or drug paraphernalia offenses as defined in Section 13A-12-21 1 to 13A-12-260, inclusive, Ala. Code 1975, an additional fee of \$100.00 will be assessed pursuant to Section 36-18-7, Ala. Code 1975.

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 (For offenses committed before June 1, 2006)

- Enhanced Punishment for a Criminal Sex Offense:** A person convicted of a sex offense is required to comply with the requirements of the Alabama Sex Offender Registration and Notification Act (Section 15-20A-1, et seq., Ala. Code, 1975).
- Drug Trafficking Offenses:** Convictions for an offense under §13A-12-231, Code of Alabama 1975, include mandatory minimum terms of incarceration and a mandatory fine. Convictions for drug trafficking while in possession of a firearm includes an additional mandatory period of incarceration of 5 years and a mandatory fine of \$25,000.
- Other:** _____

RIGHTS YOU HAVE AND THE WAIVER OF YOUR RIGHTS

Under the Constitution of the United States and the Constitution and laws of the State of Alabama, you have a right to remain silent and you may not be compelled to give evidence against yourself. Your attorney cannot disclose any confidential talks he/she has had with you. You do not have to answer any questions. If you do answer questions knowing that you have a right to remain silent, you will have waived this right.

You have the right to enter, or stand on if previously entered, a plea of “Not Guilty” or “Not Guilty by Reason of Mental Disease or Defect,” or “Not Guilty and Not Guilty by Reason of Mental Disease or Defect” and have a public trial before a duly selected jury. The jury would decide your guilt or innocence based upon the evidence presented before them. If you elect to proceed to trial, you would have the right to be present, you would have the right to have your attorney present to assist you, you would have the right to confront and cross examine your accuser(s) and all the State’s witnesses, you would have the right to subpoena witnesses to testify on your behalf and to have their attendance in court and their testimony required by the court, and you would have the right to take the witness stand and to testify, but only if you chose to do so, as no one can require you to do this. If you elect to testify, you can be cross examined by the State just as any other witness is subjected to cross examination. If you elect not to testify, no one but your attorney will be allowed to comment about that fact to the jury. Your attorney is bound to do everything he/she can honorably and reasonably do to see that you obtain a fair and impartial trial.

If you elect to proceed to trial, you come to court presumed to be innocent. This presumption of innocence will follow you throughout the trial until the State produces sufficient evidence to convince the jury (or the court if the trial is non-jury) of your guilt beyond a reasonable doubt. You have no burden of proof in this case. If the State fails to meet its burden, you would be found not guilty.

If you are entering a guilty plea to a charge for which you have not yet been indicted, you are waiving indictment by a grand jury and you will be pleading guilty to a charge preferred against you by a District Attorney’s Information filed with the court.

If you are not a United States citizen, a guilty plea may subject you to adverse immigration consequences, including deportation (see 8 U.S.C. 1227), exclusion from reentry to the United States and amnesty, and that the appropriate consulate may be informed of the plea and conviction.

If you are convicted of a misdemeanor crime of domestic violence, which has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, against your current or former spouse; your child of whom you are a parent or guardian; a person with whom you share a child in common; a spouse, parent, or guardian with whom you are, or have been, cohabiting or to whom you are similarly situated, and you ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition, or if you receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce, **YOU ARE SUBJECT TO BEING PROSECUTED IN FEDERAL COURT FOR VIOLATING 18 U.S.C. 922(g)(9).**

Pursuant to Section 15–22–27.3, Ala. Code 1975, if you are pleading guilty to a sex offense involving a child as defined in Section 15-20A-4, Ala. Code 1975, which constitutes a Class A or B felony, you will not be eligible for parole.

If you plead guilty, there will be no trial. You will be waiving the rights outlined above, except your rights relating to representation by an attorney. The state will have nothing to prove and you will stand guilty on your guilty plea. By entering a plea of guilty, **YOU WILL ALSO WAIVE YOUR RIGHT TO APPEAL**, unless in appeals to the Court of Criminal Appeals or the Supreme Court (1) you have, before entering the plea of guilty, expressly reserved the right to appeal with respect to a particular issue or issues, in which event appellate review shall be limited to a determination of the issue or issues reserved, or (2) you have timely filed a motion to withdraw the plea of guilty after pronouncement of sentence on the ground that the withdrawal is necessary to correct a manifest injustice, and the court has denied your motion to withdraw your plea, or the motion has been deemed denied by operation of law.

If you have a right to appeal under one of the conditions above and you are determined by the court to be indigent, counsel will be appointed to represent you on appeal if you so desire and if the appeal is from a circuit court judgment or sentence, a copy of the record and reporter’s transcript will be provided at no cost to you. If the appeal is from a municipal or district court judgment to circuit court, you have a right to demand a jury trial if you indicate your wish to assert this right on the notice of appeal.

If you have any questions about your rights or the consequences of pleading guilty, please let the court know now and further explanation will be made.

The court having personally addressed the defendant determines that the defendant has entered the plea voluntarily.

_____ Date

_____ Judge

ATTORNEY’S CERTIFICATE

I certify that the above was read and/or explained to the defendant by me; that I explained the penalty or penalties to the defendant, that I discussed in detail the defendant’s rights and the consequences of pleading guilty; and that, in my judgment, the defendant understands the same and that he/she is knowingly, voluntarily, and intelligently waiving his/her rights and entering a voluntary and intelligent plea of guilty. I further certify to the court that I have in no way forced or induced the defendant to plead guilty and, to my knowledge, no one else has done so.

_____ Date

_____ Attorney

DEFENDANT’S STATEMENT OF WAIVER OF RIGHTS AND PLEA OF GUILTY

I certify to the court that I have read the matters set forth above or have had them read to me; that my rights have been discussed with me in detail and fully explained; that I understand the charge or charges against me; that I understand my rights, the punishment or punishments provided by law as may apply to my case, and I understand the consequence of pleading guilty; that I am not under the influence of any drugs, medicines, or alcoholic beverages; and I have not been threatened or abused or offered any inducement, reward, or hope or reward to plead guilty other than the terms of the plea agreement which will be stated on the record.

I further state to the court that I am guilty of the charge to which I am entering a plea of guilty, that I desire to plead guilty, that I made up my own mind to plead guilty, and that I knowingly, intelligently, and voluntarily waive my right to a trial in this case. I further state to the court that I am satisfied with my attorney’s services and his/her handling of my case.

_____ Date

_____ Defendant