

EXPLANATION OF RIGHTS AND PLEA OF GUILTY
(Habitual Felony Offender – Circuit/District Court)

- Enhanced Punishment for a Felony Criminal Sex Offense Involving a Child:** Sections 13A-5-6(a)(5) and (a)(6), 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 Use Of Firearm Or Deadly Weapon:** Sections 13A-5-6(a)(5) and (a)(6), 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)(5) and (a)(6), 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. Loss of Driving Privileges: Pursuant to Section 13A-12-291, Ala. Code 1975, a driver’s license shall be suspended for six months for a conviction for any of the following: attempting to commit, criminally conspiring to commit, criminal solicitation to commit, or committing the crime of trafficking in specified substances under Section 13A-12-231; attempting to commit, criminal solicitation to commit, or committing the crime of unlawful possession with intent to distribute a controlled substance under subsections (c) and (d) of Section 13A-12-211. Suspension of a driver’s license for a conviction of driving under the influence of a controlled substance or under the combined influence of a controlled substance and alcohol shall be governed by Section 32-5A-191, the DUI 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.
- 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 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.
- 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 devices on motor vehicles. Pursuant to Section 32-5A-191, Ala. Code 1975, a conviction for driving under the influence carries a mandatory driver’s license suspension.
- 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-12-211 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.
- Other:**

RIGHTS YOU HAVE AND 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. You attorney cannot disclose any confidential talks he/she has had with you. You are not required 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, and continue to assert, a plea of "Not Guilty" or "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 your choose 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 decide 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 plead guilty, there will be no trial. You will be waiving your 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, (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 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 fully read to the defendant by me; that I explained the penalty or penalties involved with the defendant; that I discussed in detail 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 my attorney has read and explained the matters set forth above; 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 they may apply to my case, and I understand the consequences 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 of 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 and intelligently, and voluntarily waive my right to trial in this case. I further state that I am satisfied with my attorney's services and his/her handling of my case.

_____ Date

_____ Defendant