

Uniform Sentencing Entry
Ad Hoc Committee
Report & Recommendations



August 31, 2020
OHIO CRIMINAL SENTENCING COMMISSION





OHIO

CRIMINAL SENTENCING COMMISSION

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APPENDICES

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Appendix K: DRAFT Glossary of Terms

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Appendix R: Ohio Sentencing Data Platform Road Map & Preproduction Scope of Work

Appendix S: Byrne/JAG grant submission – summary

Appendix T: Ohio Adult Justice System Map

Court of Appeals of Ohio

Sixth Appellate District

JUDGE MARK L. PIETRYKOWSKI
JUDGE ARLENE SINGER
JUDGE THOMAS J. OSOWIK
JUDGE CHRISTINE E. MAYLE
JUDGE GENE A. ZMUDA
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CARRIE A. CONNELLY
ASSISTANT COURT
ADMINISTRATOR

August 26, 2020

Chief Justice Maureen O'Connor
Supreme Court of Ohio
65 South Front Street
Columbus, Ohio 43215-3431

Dear Chief,

It is my privilege and honor to submit the enclosed copy of the Uniform Sentencing Entry Ad Hoc Committee Report and Recommendation for your consideration. Let me first express my gratitude and appreciation to the staff at the Sentencing Commission on behalf of all of the committee members. It is clear to me this project's completion is a direct result of their hard work and professionalism. I would be remiss if I did not further express to you my thanks for the work of Sara Andrews and Scott Shumaker. They helped frame, guide, direct, and keep your chair and the committee members organized. The accomplishments of this project are based in large measure on their work. As chair, I think you should know that.

I cannot help but reflect how different our world is from when you first authorized this committee and its work. They say timing is everything; I believe because of your foresight in creating this committee, Ohio stands ready to complete the task of bringing the Ohio Judiciary into the 21st Century. The Felony Sentence and Method of Conviction entries will inform judicial decision-making and therefore, contribute to producing a safer, fairer, and more cost-effective criminal justice system. These efforts improve judicial outcomes in felony sentences. Additionally, the Report establishes a process which, once accomplished, will provide practitioners and professionals with information necessary to study and make informed decisions in developing policies and practices which can be implemented to maintain a fair and open judicial process. Justice requires nothing less, and with this work, we can accomplish so much more.

Finally, let me express my thanks for allowing me to chair this excellent committee. I/we stand ready to meet and discuss its particulars, at your earliest convenience.

Yours for a just system,

A handwritten signature in black ink, appearing to read 'Gene A. Zmuda', with a long horizontal line extending to the right.

Judge Gene A. Zmuda,
Sixth District Court of Appeals

Enclosure



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EXECUTIVE SUMMARY

Felony sentencing in Ohio is a complex, intricate process, and ensuring clear, comprehensible sentences is of the utmost import for the administration of justice and promoting confidence in the system. As such, Chief Justice Maureen O'Connor asked the Ohio Criminal Sentencing Commission (Commission) to convene a Uniform Sentencing Entry Ad Hoc Committee. The charge to the Uniform Sentencing Entry Ad Hoc Committee was two-fold: 1.) to develop a model, uniform felony sentencing entry and 2.) to coordinate work with the Supreme Court's Commission on Technology and the Courts standards workgroup regarding the need to have defined guidelines for entering sentencing data elements.

To accomplish its charge, the Committee approached its work with the premise that the uniform sentencing entry should serve as a template, prescribing the most concise minimum language required to comply with Criminal Rule 32 (Appendix A) and existing case law (Appendix B). It was also understood and agreed that the uniform sentencing entry should allow supplemental case specific information to be incorporated, when necessary. Further, the Uniform Sentencing Entry Ad Hoc Committee and the Commission on Technology and the Courts standards workgroup agreed to explore opportunities for standardizing and reporting sentencing information in a format that will improve the reporting and analysis of sentencing data. The business of the Committee was conducted by consensus agreement of the majority.

The Uniform Sentencing Entry Ad Hoc Committee first met on October 18, 2019 and over the next several months met in person three times to complete its first draft of the Uniform Sentencing Entry. The meetings of the Committee were content rich. The Committee began by evaluating current felony sentencing entries from each county in Ohio. In total the Committee reviewed 124 sentencing entries from all 88 counties (Appendix C). The Committee also reviewed a nationwide snapshot prepared by the Washington Sentencing Guidelines Commission (Appendix D).

The members of the Uniform Sentencing Entry Ad Hoc Committee generally found the development of the DRAFT Uniform Entry challenging, but worthwhile given the agreed parameters and the Committee was able to draft a document synthesizing the multitude of drafts it reviewed. A brief report (Appendix E) and the draft Uniform Sentencing Entry was presented to Chief Justice O'Connor in February 2020. Notably, the report to Chief Justice O'Connor advised her of additional work recommended to complete the broad scope of Committee.

The Committee determined and agreed there are certain, important elements that precede sentencing but not essential to the minimum language required for a uniform sentencing entry. Thus, there was a need for the development of companion Method of Conviction Entries and associated documents – especially in light of recent Supreme Court of Ohio decisions impacting pleas and imposition of post release control. (Appendix F, G, H)

Accordingly, Chief Justice O'Connor asked the Committee to continue its effort and to develop the companion Method of Conviction entries and associated documents. Administrative Judges, Court Administrators and Clerks were again asked to help guide the work of the Committee by providing detail on their respective court's approach to the use of a method of conviction (plea or trial) form or entry and the sentencing entry in felony cases. (Appendix I)

The Committee met in person in March 2020 and virtually over the next several months. During that time, the draft Uniform Sentencing Entry was widely distributed for feedback – both by email to a variety of users and groups and by presentation in workshops and webinars. The iterative process will continue as the Method of Conviction documents and final version of the Uniform Sentencing Entry are shared among judicial associations, court personnel, and practitioners, and posted on the Commission's website.

Throughout the work of the Committee it became clear that there was a common thread to the discussion centered squarely on the notion of what the Committee coined “good civics.” In other words, there are a number of standardized documents and notices that are used with regularity and frequency in felony court that should also be available for reference. The Committee agreed that the Commission should obtain these documents from individual jurisdictions and serve as a repository to standardize and make them available. It is important to highlight this third category of documents and ensure that just as the Uniform Sentencing Entry and Method of Conviction entries evolve in implementation and are “living” documents, the Commission also continues to maintain and make available the related Good Civics index of forms and notices recommended for use, but not required by law for sentence and method of conviction disposition.

The Committee also recognized and identified the need to develop a Data Dictionary and Glossary of Terms (Appendix J, K) for the implementation and use of the Uniform Sentencing Entry, Method of Conviction entries and the Good Civics forms and notices. Given the complex nature of felony sentencing, it is fundamental that terms are defined and expectations managed. The Committee, over the course of its deliberations, frequently paused to consider and discuss the variance in local practice as applied to felony sentencing.

The Commission, as a consequence of the foregoing, stands ready to monitor legislation and Supreme Court case law to keep the uniform entry current with any necessary changes, to notify practitioners of those changes, and work with jurisdictions to provide any necessary implementation training as the entry is adopted. In fact, there have already been three substantive changes due to Supreme Court rulings, further demonstrating the utility of a “living document”. Thus, a key strategy to a thoughtful and measured roll-out of the Uniform Sentencing Entry and related documents is collaboration between the Commission and the Ohio Common Pleas Judges Association, the Supreme Court of Ohio, the Ohio Judicial Conference, felony Court Administrators, the county Clerk of Courts Association and the Chief Probation Officers Association, among others.

As of this writing, the Committee has endorsed a “package” of documents included herein for adoption for felony sentencing:

1. Uniform Sentencing Entry
2. Uniform Method of Conviction (Plea) Entries
3. Intervention in Lieu Of Conviction & Diversion Entries
4. Not Guilty By Reason of Insanity Disposition Entries
5. Competency Disposition Entries

The Committee thoroughly discussed the aforementioned documents and while doing so acknowledged a path toward data collection. However, and importantly, the Committee declared that determination on data collection was best left to those with subject matter expertise and to the Commission.

This is a pivotal time in Ohio and across the country. There is a reckoning to achieve social and racial justice. The Commission has long contemplated the collection of sentencing data (Appendix N, O, P) and the near three decade long sentencing data deficit must be addressed -- as demonstrated by the still unrealized recommendations on data collection from the Ohio Commission on Racial Fairness Report (Appendix L). *The adoption of this package of felony sentencing documents is the first step to begin standardized, aggregate felony sentencing data collection in Ohio.* It provides the foundation to create a timely, accurate, comprehensive and shared (felony) sentencing database to help inform decision-making and give judges the tools and information needed to impose sentences in accordance with the purposes and

principles of felony sentencing. We believe we can do this in a way that is efficient, reduces duplication and does not fiscally burden local government.

Essential to the effort will be the modernization of the Commission's statutory authority and transition to the Ohio Criminal Justice Commission. The modernization of the enabling statutes of the Commission includes both changes in membership and duties. Importantly, the changes in duties for the Commission are robust and support the indispensable role for sentencing commissions to assemble and analyze all the data about the inflows and outflows of the criminal justice system needed to make sensible cost-benefit decisions and promote smart, effective use of resources and ensure measured, proportional responses. Moreover, these changes also provide objective evaluative tools to consider the consequence of proposed legislation and the significant need for an independent entity to provide this objective evaluation for the legislative, executive, and judicial branches. The proposed new Commission is designed to provide that service. (Appendix Q)

The proposed modernization would also make several necessary changes including to codify the Commission as a criminal justice agency and obligate it to develop and maintain a statewide criminal sentencing database. The Commission is accountable for proposing, vetting, and advancing the best and most impactful interests for fair sentencing and sound public policy. The expectation is, simply stated, proactive recommendations that change lives and deliver on the fundamental purposes and principles of sentencing – creating a felony sentencing database in Ohio delivers on that expectation.

The following recommendations will achieve a reasoned, deliberate roll-out strategy for implementation of the Uniform Sentencing Entry and companion documents and provide a roadmap (Appendix R, S) for the development of a felony sentencing database which will provide an unprecedented level of information for practitioners and policy makers. The information can be used to leverage resources and programming to improve outcomes for those involved in the criminal justice system and help inform judicial decision-making. It can be the cornerstone to a larger, comprehensive criminal justice database that captures data throughout the continuum (Appendix T) – from the first contact with law enforcement through post-case disposition – and, ultimately at both the misdemeanor and felony level. In other words, robust data and information translates to a safer, fairer, and more cost-efficient criminal justice system.



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RECOMMENDATIONS*

Recommendation #1:

The Commission will develop, distribute and regularly update the Uniform Sentencing Entry and accompanying Method of Conviction entries for court use. Further, the Commission shall collaborate with the Ohio Common Pleas Judges Association, the Supreme Court of Ohio, the Ohio Judicial Conference, felony Court Administrators, and the county Clerk of Courts Association and Chief Probation Officers Association, among others.

The Commission shall review and evaluate each form/entry to ensure it:

- a. Prescribes the most clear and concise minimum language to meet the requirements of Criminal Rule(s), existing case law and Ohio Revised Code;
- b. Uses plain language in accordance with the federal government's plain language guidelines (www.plainlanguage.gov) to the maximum extent possible;
- c. Includes instructions, background and history of changes;
- d. Can be translated into other common languages.

Recommendation #2:

The Commission shall facilitate the development of a (felony) sentencing database and ensure that it does not shift any undue costs to the courts.

Recommendation #3:

The Ohio General Assembly should enact legislation to modernize the enabling statutes of the Ohio Criminal Sentencing Commission and require the creation of a sentencing database.

Recommendation #4:

The Commission shall establish a Governance Board to collaborate on the:

- a. Identification and definition of data elements for collection and the implementation of the sentencing database;
- b. A roadmap and strategy for the development of a comprehensive criminal justice database that will interface with existing data sources;
- c. Policies for data governance, privacy and security.

Recommendation #5:

The Commission will commit to building upon its relationships with courts to further trust and cooperation as courts are both users and generators of the data for the database. Further, the localities will have to trust that adoption of the uniform entries and use of the database will be a time saving technology that is not redundant data entry and that the data in the system will not purposefully be misunderstood, misrepresented or misused.



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Recommendation #6:

The Commission should further its partnership with the University of Cincinnati, the Ohio State University and Case Western Reserve University to facilitate the development of the sentencing database. Further, the Commission will broker partnerships, seek opportunities to pool resources, leverage relationships and build capacity with other partners to sustain and scale the development of the database.

Recommendation #7:

The Commission will work with a pilot site for the adoption of the uniform entries and development of a prototype for the database. The prototype is not a (final) live production environment, but rather it is a small-scale effort to bring the concept of the database to reality. This allows for a comprehensive approach including user analysis, data design, system architecture, user testing and validation. Further, it will allow the Commission to:

- a. Better understand the life cycle of sentencing data in Ohio;
- b. Develop the system infrastructure within the framework of the Uniform Sentencing Entry form;
- c. Plan a phased roll out; and
- d. Pilot the platform among select agencies and plan remaining phases. The gradual roll-out plan is designed to allow easy adoption by localities with opportunities for meaningful input and robust collaboration.

The pilot phase will assess and document the context in which felony sentencing data are created, stored, transferred, and analyzed.

Recommendation #8:

The Commission should ensure that the sentencing database encapsulates the data elements of the Uniform Sentencing Entry and Method of Conviction entries and enables jurisdictions to easily enter the data into the system, upload their sentencing entry to the system for extraction of necessary information, or send the needed data from their case management system directly to the database.

In addition, the Commission should establish that various reports can be extracted from the system through exports or direct push to other data platforms in the state, such as the Ohio Courts Network. Furthermore, the system should have a dashboard to provide insights to the various constituencies and to aid in decision-making, giving judges the tools and information in accordance with the purposes and principles of felony sentencing.

Recommendation #9:

The Commission shall establish data governance protocols to ensure that the sentencing database complies with all state and federal regulations, privacy and security rules, policies and laws.

Recommendation #10:

The Commission shall publish reports from datasets in its possession in a modern, open, electronic format that is machine readable and readily accessible by the public on its website.

Further, the Commission shall address the comparative use of data between counties, recognizing and acknowledging that community standards drive law enforcement, prosecution and sentencing decision-making. Raw data may be provided upon a public record request and in accordance with applicable law.



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Recommendation #11:

The Commission should publish and keep current:

- a. A data dictionary defining data elements, describing data fields, and detailing the meaning of and options for each data element reported;
- b. How data collected is compiled, processed, structured, used, or shared;
- c. A glossary of terms.

Recommendation #12:

The Commission should establish rule or policy to:

- a. Ensure the Uniform Sentencing Entry and Method of Conviction entries are routinely reviewed and revised to reflect applicable case law, change in Revised Code or Court Rule and remain current;
- b. Explain the requirements for implementing and monitoring the database and how information is accessed by the public;
- c. Allow consultation with local, state, and federal criminal justice agencies and other public and private users of the database on the data elements collected, the use of such data, and adding data elements to be collected;
- d. Monitor data collection procedures and test data quality to facilitate the dissemination of accurate, valid, reliable, and complete sentencing data;
- e. Develop methods for archiving data, retrieving archived data, and data editing and verification.

Recommendation #13:

The Supreme Court of Ohio should amend Rule of Superintendence 37.02 to reflect adoption of the Uniform Sentencing Entry and related documents (Appendix M).

**Member participation on the Ad Hoc Committee is not unqualified endorsement of the final recommendations.*



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AD HOC COMMITTEE ROSTER

Gene A. Zmuda – **Chair**, Judge, Sixth District Court of Appeals

Jeffrey L. Reed, Judge, Allen County Court of Common Pleas

Michael J. Russo, Judge Cuyahoga County Court of Common

Robin N. Piper, III, Judge, Twelfth District Court of Appeals

George P. McCarthy, Judge, Athens County Court of Common Pleas

Mary E. Montgomery, Judge, Montgomery County Court of Common Pleas

Scott T. Gusweiler, Judge, Brown County Court of Common Pleas

Kristin G. Farmer, Judge, Stark County Court of Common Pleas

Stephen L. McIntosh, Judge, Franklin County Court of Common Pleas

Sean C. Gallagher, Judge, Eighth District Court of Appeals

Eamon P. Costello, Judge, Madison County Court of Common Pleas

Chip McConville, Knox County Prosecutor

Joe Medici, Office of the Ohio Public Defender

Branden Meyer, Fairfield County Clerk of Courts

Kristin Schultz, Delaware County Court Administrator

Marta Mudri, Ohio Judicial Conference

Stephanie Graubner-Nelson, Supreme Court of Ohio

Robert Stuart, Supreme Court of Ohio

Staff of the Ohio Criminal Sentencing Commission:
Sara Andrews, Scott Shumaker, Niki Hotchkiss, Todd Ives



BACKGROUND

The development of a uniform sentencing entry will reduce errors and subsequent appeals, provide a model for standardization statewide, and possibly, through leverage of technological resources, begin to bridge the criminal justice data gap in the state. The Uniform Sentencing Entry Ad Hoc Committee approached its work with the premise that the uniform sentencing entry should prescribe the most concise minimum language required to comply with Criminal Rule 32 (Appendix A) and existing case law (Appendix B, F, G, H). It was also understood that the uniform sentencing entry should allow supplemental case specific information to be incorporated, when necessary.

The initial meetings of the Committee included the review of current felony sentencing entries from each county in Ohio (Appendix C) as well as a nationwide snapshot prepared by the Washington Sentencing Guidelines Commission (Appendix D).

The Committee agreed thoroughly discussed and debated the content of the Uniform Sentencing Entry and presented a draft report to Chief Justice O'Connor in February 2020 (Appendix E). The Committee determined and agreed there are certain, important elements that precede sentencing but, are not essential to the minimum language required for a uniform sentencing entry. Thus, recognizing the need for the development of companion Method of Conviction Entries and associated documents – especially in light of recent Supreme Court of Ohio decisions impacting plea and imposition of post release control. (Appendix F, G, H).

After discussion of the report, Chief Justice O'Connor asked the Committee to continue its work and develop the Method of Conviction Entries, with an expected completion date of September 2020.

The Committee continued its effort to develop the companion Method of Conviction entries and associated documents. Administrative Judges, Court Administrators and Clerks were again asked to help guide the work of the Committee by providing detail on their respective court's approach to the use of a method of conviction (plea or trial) form or entry and the sentencing entry in felony cases (Appendix I).

At the same time the Committee began this work, the draft Uniform Sentencing Entry was widely distributed for feedback – both by email to a variety of users and groups and by presentation in workshops and webinars. This iterative process will continue as the Method of Conviction documents and final version of the Uniform Sentencing Entry are shared among judicial associations, court personnel, and practitioners and posted on the Commission's website.

Throughout the work of the Committee there was a common thread to the discussion centered squarely on the notion of what the Committee coined "good civics". In other words, there are a number of standardized documents and notices that are used with regularity and frequency that should be available for reference.

The Committee agreed that the Commission should obtain these documents from individual jurisdictions and serve as a repository for standardized templates. It is important to highlight this third category of documents and ensure that, just as the Uniform Sentencing Entry and Method of Conviction entries implementation evolve and are "living" documents, the Commission also continues to maintain and make available the related "Good Civics" index of forms and notices that are recommended for use but not required by law for sentence disposition.



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The Committee also recognized and identified the need to develop a Data Dictionary and Glossary of Terms (Appendix J, K) for the implementation and use of the Uniform Sentencing Entry, Method of Conviction entries and the “Good Civics” forms and notices. The Committee, over the course of its deliberations, frequently paused to consider and discuss the variance in local practice and terminology as applied to felony sentencing. Given the complex nature of felony sentencing, it is fundamental that terms are defined and expectations managed.

The Committee thoroughly discussed and acknowledged a path toward data collection through the adoption of the Uniform Sentencing Entry and companion documents. However, and importantly, the Committee declared that determination on data collection was best left to those with subject matter expertise and to the Commission.



UNIFORM SENTENCING ENTRY

The Uniform Sentencing entry is intended to provide practitioners with a template prescribing the minimum information required in a felony sentencing entry. Recognizing the complex nature of felony sentencing in Ohio, the Ad Hoc Committee worked to identify all elements necessary for an entry to comply with the Revised Code, Criminal Rule 32 as well as existing case law, and to develop the clearest and most concise language to comply with those requirements. Courts will be able to supplement the provided language with additional case-specific information pertinent to their sentencing decisions or orders of the court at the time of sentencing.

Not every case requires an interpreter, and as such not every case will need interpreter language in the sentencing entry. But where an interpreter is used at a hearing, the entry should reflect that fact. The Ad Hoc Committee identified these conditional variables with a check-box () in the entry with a reference to the instructions section where the appropriate language can be found. By leaving the check-box headings in the body of the uniform entry, practitioners are informed as to where that language should be found in the entry, when necessary. The check boxes are not intended for inclusion in the filed entry, but merely to identify when conditional language should be used when applicable. Similarly, bracketed text appearing in red e.g. **[EXAMPLE]** represents a fillable field or options to be selected depending on case-specific circumstances e.g. “The defendant is advised that post release control is **[MANDATORY/DISCRETIONARY]** ...” Blue bracketed heading without the conditional selection check box represent mandatory language in the entry.

The instructions sections following the entries also include additional information related to the topic, such as issues that may arise during the sentencing hearing and additional inquiries the Court may need to make. Courts will need to comply with local appellate decisions specific to sentencing entries – for example in Uniform Sentencing Entry instruction 7, where there is a split among appellate districts as to the application of R.C. 2929.13(B)(1)(a) regarding multiple offenses. The instructions currently attempt point out where several such conflicts exist.

Several charts are included as the clearest and most accessible way to quickly look at an entry to determine the sentence imposed. In the Uniform Sentencing Entry, the method of conviction chart lays out all counts before the Court for sentencing in the case. The sentence chart details both the count-specific sentence as well as providing a space for aggregate minimum and maximum terms in SB201 indefinite sentencing cases, and for the total stated prison term in the case. A specification chart is included to detail count-by-count specification time – members felt a separate chart was necessary to delineate complicated cases with multiple specifications, particularly where merger of specifications could become an issue.

Finally, the Ohio Criminal Sentencing Commission will monitor legislation and Supreme Court case law, and work to keep the uniform entry up to date with any necessary changes, to notify practitioners of those changes, and to work with jurisdictions to provide any necessary implementation training as the entry is adopted.



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IN THE COMMON PLEAS COURT OF **[NAME]** COUNTY, OHIO

State of Ohio :

Plaintiff :

Case No. CR N

v. :

[NAME] :

SENTENCING ENTRY

Defendant :

This case came before the Court on **[DATE]** for sentencing pursuant to R.C. 2929.19.

[DEFENDANT'S PRESENCE] ¹

[DEFENDANT'S COUNSEL/WAIVER] ²

The State of Ohio, as represented by **[NAME]**, **[WAS PRESENT/APPEARED BY VIDEO]**.

The proceedings were recorded by **[NAME OF REPORTER]/[ELECTRONIC RECORDING SYSTEM]**.

() **[INTERPRETER CASES]** ³

The Court gave defense counsel an opportunity to speak and present mitigation on the defendant's behalf, personally addressed the defendant, and provided the defendant an opportunity for allocution. The Court gave the prosecuting attorney an opportunity to address the court.

() **[VICTIM INQUIRY]** ⁴

Having considered all statements in mitigation as well as the statements of the parties, any presentence investigation, any victim impact statement and/or other statement from the victim or victim's representative, as well as the principles and purposes of sentencing in R. C. 2929.11, the seriousness and recidivism factors in R.C. 2929.12, and all other relevant sentencing statutes, and pronounced sentence on the defendant as follows:

CONVICTION & FINDINGS

[METHOD OF CONVICTION] ⁵

The Court finds that the defendant was found guilty of the following:

COUNT #	STATUTORY OFFENSE CODE	NAME OF OFFENSE	OFFENSE LEVEL	METHOD OF CONVICTION	DATE	SPECIFICATIONS (NAME AND CODE SECTION)



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- [\[MERGER OF OFFENSES\]](#) ⁶
- [\[EXCEPTIONS TO COMMUNITY CONTROL SANCTION FOR NON-VIOLENT F4/F5 & DIV. B DRUG OFFENSES\]](#) ⁷
- [\[TCAP\]](#) ⁸
- [\[F3 and DIV. C DRUG OFFENSES\]](#) ⁹
- [\[OVERCOMING PRISON PRESUMPTION\]](#) ¹⁰
- [\[MANDATORY SENTENCE DUE TO PRIOR CONVICTIONS\]](#) ¹¹

SENTENCE

- [\[PRISON IMPOSED\]](#) ¹²

The Court hereby imposes the following sentence:

COUNT #	SENTENCE (SPECIFY DEFINITE, MINIMUM, OR LIFE)	MANDATORY (Y/N)	CONC W/ COUNT	CONSEC TO COUNT	SPEC (Y/N)	MAND FINE Y/N	AMOUNT
AGGREGATE MINIMUM AND MAXIMUM TERM							
STATED PRISON TERM (includes sum of any specifications below)							

- [\[SPECIFICATION CHART\]](#) ¹³
- [\[JOINT RECOMMENDATIONS\]](#) ¹⁴
- [\[CONSECUTIVE SENTENCE FINDINGS\]](#) ¹⁵
- [\[MULTIPLE CASES – CONSECUTIVE/CONCURRENT\]](#)
- [\[NON-LIFE FELONY INDEFINITE SENTENCING\]](#) ¹⁶



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[MERGED/CONCURRENT SPECIFICATIONS] ¹⁷

[RISK REDUCTION] ¹⁸

[COMMUNITY CONTROL IMPOSED] ¹⁹

[HAVING CONSIDERED THE PRESENTENCE INVESTIGATION] /

[THE PRESENTENCE INVESTIGATION HAVING BEEN WAIVED BY THE PARTIES] the Court has considered the factors in R.C. 2929.13, finds the defendant amenable to available community control sanctions, and sentences the defendant to **[NUMBER] [MONTHS/YEARS]** of COMMUNITY CONTROL on each count below, to include the conditions and sanctions **[AS LISTED BELOW] [AS LISTED ON ATTACHED FORM]**. The defendant is ordered to report forthwith to the **[PROBATION SERVICES PROVIDER]**. The Court may modify the term of community control or sanctions consistent with R.C. 2929.15.

The defendant was informed that violation of community control sanctions may result in imposition of a reserved prison term of:

COUNT #	SENTENCE (SPECIFY DEFINITE OR MINIMUM TERM)	CONC W/ CT #	CONSE C TO CT #	MAND FINE Y/N	AMOUNT OF FINE IMPOSED	RESIDENTIAL SANCTION
AGGREGATE MINIMUM AND MAXIMUM TERM						

[CONDITIONS OF COMMUNITY CONTROL IF NOT ATTACHED] (see attached example)

[POST-RELEASE CONTROL] ²⁰

As a result of the conviction(s) in this case and the imposition of a prison sentence, and pursuant to 2967.28(F)(4)(c), the defendant **[WILL/MAY]** be subject to a period of post-release control of **[UP TO THREE/THREE/FIVE]** years. The Adult Parole Authority will administer the post-release control pursuant to R.C. 2967.28, and the defendant has been advised that if the defendant violates post-release control, the Parole Board may impose a prison term as part of the sentence of up to half of the stated prison term or stated minimum term originally imposed upon the defendant in nine-month increments.

If while on post release control the defendant is convicted of a new felony, the sentencing court will have authority to terminate the post-release control and order a consecutive prison term of up to the greater of twelve months or the remaining period of post release control.

[OFFENDER ON POST-RELEASE CONTROL AT TIME OF NEW FELONY OFFENSE]

[COURT COSTS & FEES] ²¹



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[RESTITUTION]²²

[FINES]²³

[LICENSE SUSPENSION]²⁴

[FORFEITURE SPECIFICATIONS]²⁵

[PROPERTY DISPOSITION]²⁶

[BOND]²⁷

The defendant's bond is ordered **[RELEASED/TERMINATED]**.

[LEADS NOTIFICATION]²⁸

[DISMISSED COUNTS/SPECIFICATIONS]²⁹

[REMAND/CONVEY]³⁰

[JAIL TIME CREDIT]³¹

The Court orders the defendant be granted **[NUMBER OF DAYS]** credit for time served up to and including date of sentencing and excluding conveyance time.

[EARNED CREDIT]³²

[REGISTRATION OFFENSES]³³

[DNA COLLECTION AND FINGERPRINTING]

The defendant shall submit to DNA specimen collection as required by R.C. 2901.07. If the defendant has not yet been fingerprinted in this case, they are ordered to report to **[ENTITY]** to be fingerprinted pursuant to R.C. 109.60.

[CIVIL RIGHTS/FIREARM DISABILITIES]³⁴

[APPEAL RIGHTS]³⁵

The defendant was notified of rights to appeal per Crim. R. 32 as well as their right to have counsel appointed for them at no cost if they are determined to be indigent and unable to afford counsel.

JUDGE: _____

DATE: _____

cc: Prosecutor
Defense Counsel **[NAME]**
Probation _____
Sheriff _____
SERVED BY Deputy Clerk _____
On the _____ day of _____, _____



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SAMPLE COMMUNITY CONTROL SANCTIONS ATTACHMENT

[DEFENDANTS NAME]:

[CASE NUMBER]

The Court reserves the right to modify conditions and extend the period of supervision at any time during supervision. In addition to the standard community control conditions, the Court orders the following special conditions/sanctions (conditions 2 and following apply only if marked):

1. Set up an installment payment plan for all court-ordered financial obligations. Defendant shall pay a monthly supervision fee of **[AMOUNT]** and pay for monitoring, testing, and treatment and counseling expenses.

2. Repay percentage of appointed counsel fees to the Clerk. The Court has determined pursuant to R.C. 2941.51(D) that this defendant can reasonably be expected to repay appointed counsel fees during the period of community control based on the information in the pre-sentence investigation, the assessments, and other information provided in court during the progress of this case.

3. Child support conditions:

4. Seek and maintain full-time employment/schooling.

5. Perform **[AMOUNT]** hours of community service.

6. Successfully complete following programs:

7. Substance abuse: submit to random drug/alcohol testing to confirm abstinence; stay out of high drug traffic areas do not use or be in the presence of use of any illegal controlled substances.

8. Special conditions:

9. Complete a (substance abuse) (mental health) (anger management) (domestic violence) **[OTHER]** assessment and follow all treatment recommendations as a condition of community control.

10. Stay away from and have no contact in person or by any means with **[VICTIM]** as a condition of community control.

10. Follow all local, state, and federal laws and ordinances.

11. Other:

JUDGE: _____

DATE: _____



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UNIFORM SENTENCING ENTRY INSTRUCTIONS

As a reminder, the Uniform Sentencing entry was developed as a template prescribing the minimum information required, and the provided language may be supplemented with additional case-specific information pertinent to the sentencing decisions or with specific orders of the court at the time of sentencing.

¹ – [DEFENDANT’S PRESENCE]

Note the defendant’s presence or absence for the record.

() **[DEFENDANT PRESENT]**

The defendant was present in the courtroom.

Pursuant to Criminal Rule 43, a defendant may waive their physical presence at a criminal proceeding either orally on the record or in writing, and participate in the proceeding via remote contemporaneous video technology. See Criminal Rule 43(A)(2)(a-e) for specific requirements of the video conferencing technology.

() **[DEFENDANT NOT PRESENT - WAIVER]**

The Court notified the parties in advance of the availability of videoconferencing technology. The defendant waived their right to be physically present at the hearing **[ORALLY/IN WRITING]** pursuant to Crim Rule 43(A)(3) and the proceedings were conducted via remote contemporaneous video technology that allowed for the defendant to see and hear the proceedings, to speak and be heard by the court and the parties, and to communicate with counsel privately.

A defendant may also be excluded from a proceeding due to disruptive behavior pursuant to Criminal Rule 43(B). Courts should note that disruptive behavior for the record, as well as any accommodations (such as use of contemporaneous video technology) made to preserve the rights of the defendant.

() **[DEFENDANT NOT PRESENT – DISRUPTIVE BEHAVIOR]**

[DETAIL DEFENDANT’S DISRUPTIVE BEHAVIOR] Due to the persistent disruptive conduct of the offender, the Court found pursuant to Criminal Rule 43(B) that the proceedings could not reasonably be conducted with the defendant present in the courtroom, and therefore ordered that the defendant be removed. The Court then proceeded with the hearing. **[NOTE ANY STEPS TAKEN TO PRESERVE RIGHTS OF DEFENDANT]**

² – [COUNSEL FOR DEFENDANT/WAIVER]

Note the presence or absence of defense counsel for the record.

() **[DEFENDANT HAS COUNSEL]**

Counsel for the defendant, **[NAME]**, **[WAS PRESENT/APPEARED BY VIDEO]**.

() **[PRO SE DEFENDANT]**

Defendants have a sixth amendment right to waive their right to counsel and represent themselves. The request must be unequivocal and the trial court must conduct an inquiry to insure the defendant is aware of the consequence of giving up their right to counsel and of the “dangers and disadvantages of self-representation” – including specific facts and circumstances about the defendant’s situation or charges that affect the decision to waive counsel. The request and waiver inquiry must take place on the record pursuant to Crim R 22, and in “serious offenses” (felonies), that waiver must also be



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in writing pursuant to Crim R 44.

[PRIOR WAIVER]

At a hearing on **[DATE]**, the defendant requested to waive their right to counsel and represent themselves. The Court conducted an inquiry and found that waiver to be knowingly, intelligently, and voluntarily made.

[WAIVER AT HEARING]

The defendant expressed on the record a request to represent themselves in the proceedings. The Court then conducted an inquiry into the reasons thereof and made the defendant aware of the benefits of having counsel and the dangers and disadvantages of proceeding pro se. After the inquiry, the Court found that the defendant was making a knowing, intelligent, and voluntary waiver of the right to counsel, and allowed the defendant to proceed without representation. This waiver was memorialized in writing after the inquiry on the record.

³ – [INTERPRETER QUALIFICATION]

Language for use when interpreter is necessary at the sentencing hearing. For additional information about interpreters, see the [Ohio Supreme Court Interpreter Bench Notes](#).

The Court had previously inquired and found, pursuant to R.C. 2311.14 and Sup.R. 88 that an interpreter was necessary to assist the defendant in understanding the proceedings. The **[CERTIFIED/PROVISIONALLY-QUALIFIED/REGISTERED/LANGUAGE-SKILLED]** interpreter **[NAME]** having been previously appointed and sworn on the record, interpreted for the defendant.

⁴ – [VICTIM INQUIRY]

In crimes involving a victim, Courts wishing to include language indicating that the victim has been consulted pursuant to Marsy’s Law should do so here. When implementation language is passed, this Entry will be updated if necessary to reflect the statutory requirements.

[VICTIM PRESENT]

The **[VICTIM(S)/VICTIM REPRESENTATIVE(S)]** was/were present at the hearing and was/were given the opportunity to be heard.

[VICTIM NOT PRESENT]

The **[VICTIM(S)/VICTIM REPRESENTATIVE(S)]** was/were not present at the hearing, and the Court inquired as to whether they had been notified of the hearing and given the opportunity to appear and be heard.

CONVICTION & FINDINGS

This section uses a chart to illustrate the counts the defendant has been found guilty of as well as findings the court may need to make before imposing sentence. Please note that the Uniform Sentencing Entry was constructed with an assumption that a separate entry will be prepared journalizing the method of conviction for each count – e.g. an entry of guilty plea.

⁵ – [METHOD OF CONVICTION]

This section of the entry begins with a seven-column chart detailing the following information (from left to right in chart):

1. The count number of the offense
2. The statutory offense code - e.g. 2913.02(A)
3. The name of the offense - e.g. Theft



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4. The offense level described simply as F# - e.g. F5
5. The method by which the conviction occurred - e.g. guilty plea, bench trial, jury trial etc.
6. The date of the plea or verdict in MM/DD/YYYY format - e.g. 02/01/2020
7. Any specifications attached to the count, by specification number, name and code section - e.g. 1-Firearm 2941.145

6 – [MERGER]

If the issue of merger is raised, the Court should conduct a hearing and address the issue on the record to determine what, if any, counts may merge. This analysis occurs prior to sentencing, as the defendant does not receive a sentence on merged counts. As such, the section memorializing the Court’s decision on merger is located before the sentences are formally imposed.

The language of the entry eschews the formal language of R.C. 2941.25 “allied offenses of similar import” as the Ad Hoc Committee felt that the term “merger” better reflects the language used by practitioners throughout the state. Courts involved in a merger analysis should supplement the language below with their specific findings.

() The Court finds that Counts **[NUMBERS]** merge under R.C. 2941.25 for purposes of final conviction and sentence.

The State elected to proceed on Count **[NUMBER]** and therefore a final conviction and sentence is hereby entered on Count[s] **[NUMBER]** only.

() The Court finds that merger under R.C. 2941.25 does not apply to any other counts.

() The Court finds that Counts **[NUMBERS]** do not merge under R.C. 2941.25 for purposes of final conviction and sentence.

7 – [EXCEPTION TO COMMUNITY CONTROL FOR NON-VIOLENT F4/F5 & DIV. B DRUG OFFENSES]

R.C. 2929.13(B) mandates that non-violent felonies of the fourth degree as well as “Division B” drug offenses be sentenced to community control under the circumstances delineated in (B)(1)(a). Where (B)(1)(a) does not apply, (B)(1)(b) provides the sentencing court discretion to impose a prison term where certain findings are made. Those circumstances and findings are laid out with check-boxes for the sentencing court to select from below:

[R.C. 2929.13(B)(1)(a) FACTORS]

The Court finds that a community control sanction is not required under R.C. 2929.13(B)(1)(a) because:

() The defendant has a prior conviction for a felony offense, or;

() The most serious charge before the court is not a felony of the fourth or fifth degree, or;

() The defendant has been convicted for a misdemeanor offense of violence in the two years prior to the offense being sentenced.

NOTE: Some appellate jurisdictions have held that convictions for multiple F4/F5 offenses in the same indictment render 2929.13(B)(1)(a) inapplicable. If this is the case in your jurisdiction, use language below:

() The defendant is convicted of or pleading guilty to more than one felony of the fourth or fifth degree, rendering 2929.13(B)(1)(a) inapplicable per **[LOCAL APPELLATE DECISION]**

[R.C. 2929.13(B)(1)(b) FACTORS]

The Court further finds the record supports application of a prison sentence under R.C.2929.13(B)(1)(b) because:



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- The defendant committed the offense while having a firearm on or about the defendant's person or under the defendant's control.
- The defendant caused physical harm to another person while committing the offense.
- The defendant violated a term of the conditions of bond as set by the court.
- The court made a request of the department of rehabilitation and correction pursuant to division R.C. 2929.13(B)(1)(c), and the department, within the forty-five-day period specified in that division, did not provide the court with the name of, contact information for, and program details of any community control sanction of at least one year's duration that is available for persons sentenced by the court.
- The offense is a sex offense that is a F4 or F5 violation of any provision of R.C. 2907.
- In committing the offense, the defendant attempted to cause or made an actual threat of physical harm to a person with a deadly weapon.
- In committing the offense, the defendant attempted to cause or made an actual threat of physical harm to a person, and the defendant previously was convicted of an offense that caused physical harm to a person.
- The defendant held a public office or position of trust, and the offense related to that office or position; the defendant's position obliged the defendant to prevent the offense or to bring those committing it to justice; or the defendant's professional reputation or position facilitated the offense or was likely to influence the future conduct of others.
- The defendant committed the offense for hire or as part of an organized criminal activity.
- The defendant at the time of the offense was serving, or the defendant previously had served, a prison term.
- The defendant committed the offense while under a felony community control sanction, while on probation, or while released from custody on a bond or personal recognizance.

8 – [TCAP]

In counties participating in the Targeted Community Alternatives to Prison (TCAP) program, use the following language:

[TCAP APPLICABLE]

The Court further finds that pursuant to R.C. 2929.34(B)(3)(c-d) TCAP does apply hereby orders the defendant serve a term of incarceration of **[TERM OF MONTHS]** at **[LOCAL DETENTION FACILITY]**.

[TCAP NOT APPLICABLE]

The Court further finds that pursuant to R.C. 2929.34(B)(3)(c-d) TCAP does not apply as:

- The felony of the fifth degree was an offense of violence, as defined in R.C. 2901.01, a sex offense under R.C. Chapter 2907, a violation of R.C. 2925.03, or any offense for which a mandatory prison term is required.
- The person previously has been convicted of or plead guilty to any felony offense of violence, as defined in R.C. 2901.01.
- The person previously has been convicted of or plead guilty to any felony sex offense under R.C. Chapter 2907.
- The person's sentence is required to be served concurrently to any other sentence imposed upon the person for a felony that is required to be served in an institution under the control of the department of rehabilitation and correction.

9 – [F3 and DIVISION C DRUG OFFENSES]

Pursuant to 2929.13(C) there is generally no presumption for prison or community control for felonies of the third degree and “Division C” drug offenses, other than the purposes and principles of sentencing in R.C. 2929.11 and 2929.12. Use the following language:

Pursuant to 2929.13(C) the Court finds there is no presumption relative to Count(s) **[NUMBER]** and has considered the purposes and principles of sentencing in R.C. 2929.11 and the seriousness and recidivism factors in R.C. 2929.12 in fashioning the sentence on these counts.

10 – [OVERCOMING PRISON PRESUMPTION]

There is a presumption in favor of imposition of a prison term for:

1. Non-mandatory first- and second-degree felonies,
2. Certain third degree felony drug offenses (see the Sentencing Commission’s [Drug Offense Quick Reference Guide](#)) as well as
3. Third degree felony theft of firearm R.C. 2913.02(B)(4), certain Gross Sexual Imposition offenses R.C. 2907.05(A)(4) or (B), or Importuning R.C. 2907.07(F)

Use the following language for presumptive prison offenses:

Pursuant to R.C. 2929.13(D) there is a presumption in favor of a prison sentence on Count[s] **[NUMBER]**.

This presumption may be overcome by the sentencing court. Use the language below if imposing a community control sanction for one of these offenses:

The court finds this presumption is overcome and that a community control sanction or combination of community control sanctions:

- Will adequately punish defendant and protect the public from future crime because the applicable factors under R.C. 2929.12 indicating a lesser likelihood of recidivism outweigh the applicable factors indicating a greater likelihood of recidivism, and;
- Does not demean the seriousness of the offense because one or more factors under R.C. 2929.12 indicate that the defendant’s conduct was less serious than conduct normally constituting the offense and outweigh the factors indicating the conduct was more serious than conduct normally constituting the offense.

11 – [MANDATORY SENTENCE DUE TO PRIOR CONVICTION]

Some sentences are made mandatory due to the defendant’s prior convictions. See R.C. 2929.13(F)(6) and (7) and use the following language in these cases.

The Court finds that, pursuant to **[R.C. 2929.13(F)(6)] / [R.C. 2929.13(F)(7)]** the sentences on Count(s) **[NUMBERS]** is made mandatory due to the defendant’s prior conviction(s) for **[DETAIL PRIOR CONVICTION(S)]**.



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SENTENCE

The second section of the entry details the imposition of a prison sentence or a term of community control. Each of the two sections contains a chart detailing the prison term either imposed or reserved for each count, as well as other factors relevant to the sentence. The charts in this section do not require that the name of the offense or the statutory code sections be repeated – all offenses are referred to by count number and can be referenced with the conviction chart above.

12 – [PRISON IMPOSED]

When imposing a prison term, the court will detail the sentence for each count in the prison imposed chart. This chart contains 8 columns, referencing each offense by count number as detailed in the conviction chart above. The columns detail (from left to right):

1. The count number of the offense
2. The sentence imposed for the offense including what type of term is imposed – e.g. 5 year minimum term, 12 month definite term, or 15-life term
3. Whether the term is a mandatory term – a yes/no indication.
4. The number of any counts to which the offense will run concurrently, if any.
5. The number of any counts to which the offense will run consecutively, if any.
6. Whether any specifications are attached to the count – a yes/no indication.
7. Whether a mandatory fine is attached to the count – a yes/no indication.
8. The amount of fine imposed for the count. Other considerations around fines including ability to pay considerations are detailed later in the entry.

The prison imposed chart also contains two rows at the bottom, the first of which deals with non-life felony indefinite sentences. It provides a place to state the aggregate minimum term (when counts are run consecutively) and/or the maximum term imposed for the case.

The final row of the prison imposed chart provides a column to delineate the “stated prison term” in the case – which would include any time imposed for specifications. Courts should not that when specifications are involved, this term is different than the aggregate minimum and maximum term imposed in the previous row. The stated prison term refers to the specification chart detailed below.

13 – [SPECIFICATION CHART]

Where a case involves specifications to one or more counts, a separate chart will be inserted following the prison imposed chart detailing those specifications. The Ad Hoc Committee felt that a separate chart was necessary given the number of issues that can arise with multiple specifications to the same count, multiple counts with specifications, and issues of merger of specifications under R.C. 2929.14(B)(1)(b). The specification chart is made up of 6 columns (from left to right):

1. The count number of the offense
2. The specification number in the indictment
3. The specification name and code section – e.g. Firearm 2941.145
4. The prison term imposed on the specification.
5. The count number and specification number of any specifications to which the specification will run concurrently.
6. The count number and specification number of any specifications to which the specification will run consecutively.

Regarding the consecutive/concurrent specifications, the issue of merger of specifications under R.C. 2929.14(B)(1)(b) and (g) is addressed later in the entry, if necessary.

Finally, the specification chart includes a final row for the Court to indicate the sum of all consecutive specification terms imposed. This number of years is added to the consecutive terms imposed for the underlying offenses and is reflected in the stated prison term in the prison imposed chart.

COUNT #	SPECIFICATION #	SPECIFICATION NAME AND CODE SECTION	PRISON TERM	CONC W/ (SPECIFICATION # -COUNT #)	CONSEC TO (SPECIFICATION # - COUNT #)
SUM OF CONSECUTIVE TERMS FOR SPECIFICATIONS (add to stated prison term above)					

Courts wishing to supplement the chart with additional text may use the following language:

For Specification **[NUMBER OF SPECIFICATION]** to Count **[NUMBER]**, the defendant shall serve an additional **[TERM]** of mandatory and consecutive imprisonment pursuant to **[CODE SECTION]** **(repeat as necessary)**

[MDO/RVO/VCC/SVP]

Having been convicted of a **[REPEAT VIOLENT OFFENDER/MAJOR DRUG OFFENDER/VIOLENT CAREER CRIMINAL/SEXUAL MOVITVATION/SEXUALLY VIOLENT PREDATOR]** specification in Count **[NUMBER]**, the defendant is sentenced to an additional term of **[NUMBER OF YEARS]** beyond the basic prison term listed above for the underlying offense.

14 – [JOINT RECOMMENDATIONS]

Where the sentence is the result of a joint recommendation of the parties and adopted by the court, insert this language to supplement the record in case of an appeal:

[JOINT RECOMMENDATION]

The stated prison term imposed in this case is authorized by law and has been recommended jointly by the defendant and the prosecution in the case pursuant to R.C. 2953.08(D)

15 – [CONSECUTIVE SENTENCES]

[MANDATORY CONSECUTIVE SENTENCES]

Several felony offenses (e.g. R.C. 2921.331 Failure to Comply), while not mandatory prison terms, are required be run consecutive to other counts by operation of law when a prison term is imposed. These are listed on page 10 of the Sentencing Commission’s [Felony Sentencing Quick Reference Guide](#). Use the following language with regard to these offenses:

The Court finds that pursuant to **[R.C. 2929.14(C)(3)] / [R.C. 2929.14(C)(4)]** that the prison term imposed on Count **[NUMBER]** will be served consecutively by operation of law.



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[DISCRETIONARY CONSECUTIVE SENTENCE FINDINGS]

If the sentencing court wishes to order that counts within the indictment be served consecutively, use the following language to make the requisite findings in the entry, selecting those statutory factors that apply. Courts may supplement this language with further explanation

Pursuant to R.C. 2929.14(C)(4) the court orders that consecutive sentences are made necessary to protect the public from future crime or to punish the defendant, and that consecutive sentences are not disproportionate to the seriousness of the defendant’s conduct and to the danger the defendant poses to the public, and because:

- The defendant committed one or more of the offenses while awaiting trial or sentencing or was under a sanction imposed pursuant to R.C. 2929.16, 2929.17, or 2929.18, or was under post-release control for a prior offense.
- At least two of the multiple offenses were committed as part of one or more courses of conduct, and the harm caused by two or more of the multiple offenses so committed was so great or unusual that no single prison term for any of the offenses committed as part of any of the courses of conduct adequately reflects the seriousness of the defendant’s conduct.
- The defendant’s history of criminal conduct demonstrates that consecutive sentences are necessary to protect the public from future crime by the defendant.

[MULTIPLE CASES – CONSECUTIVE/CONCURRENT]

Use the following language where the Court is aware of other active cases pending against and wishes to make an order on how those sentences are to be served in relation to each other:

The Court orders the sentence in this case to be served **[CONCURRENTLY/CONSECUTIVELY]** to Case **[NUMBER]** **[SPECIFY IF DIFFERENT JURISDICTION]**. (repeat as needed)

¹⁶ – [NON-LIFE FELONY INDEFINITE SENTENCING]

For cases involving SB201 qualifying indefinite sentences use the following language to clearly state the maximum term involved in the case, as well as language indicating the defendant has been advised of indefinite sentencing procedures on the record as required by law.

Counts **[NUMBER]** are qualifying offenses subject to indefinite sentencing and the defendant has been sentenced to a minimum term on each qualifying count as detailed above.

[NON-LIFE FELONY INDEFINITE TERM SUMMATION] [Single/Concurrent]

Having imposed the minimum term[s] on Count[s] **[NUMBER]** the Court further sentences the defendant to a maximum term of **[TERM OF YEARS]** pursuant to R.C. 2929.144.

[NON-LIFE FELONY INDEFINITE TERM SUMMATION] [Consecutive]

Having imposed the minimum term[s] on Count[s] **[NUMBER]** and definite terms on Count[s] **[NUMBER]** the Court further sentences the defendant to an aggregate minimum term of **[TERM OF YEARS]** and a maximum term of **[TERM OF YEARS]** pursuant to R.C. 2929.144.

The defendant having been sentenced to a non-life felony indefinite prison term has been advised on the record of the indefinite sentencing procedures pursuant to R.C. 2929.19(B)(2)(c).



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NOTE: R.C. 2929.19(B)(2)(c) **requires** Courts to notify defendants sentenced to a non-life felony indefinite term of the procedures of indefinite sentencing and the fact that the defendant was notified should be memorialized in the sentencing entry with the following language:

NOTE: R.C. 2929.19(B)(2)(c)(i) as written contains language that may be confusing to defendants who are facing a mandatory term on their SB201 qualifying offense. Mandatory terms are not eligible for earned reduction of the minimum prison term, and that language in (B)(2)(c)(i) relating to the “presumed earned early release date” should be omitted in those circumstances.

For additional information on SB201 indefinite sentencing, see the Sentencing Commission’s [SB201 Quick Reference Guide](#).

17 – [MERGER OF SPECIFICATIONS]

Cases with multiple specifications may require consideration of both merger of specifications under 2929.14(B)(1)(b) and whether the sentencing court chooses to run any of the specifications concurrently under 2929.14(B)(1)(g). Use the following language to supplement the record regarding the sentences imposed in the specification chart.

Having considered R.C. 2929.14(B)(1)(b) the Court orders the specifications to Count[s] **[NUMBERS]** to be merged as having been committed as part of the same act or transaction

Pursuant to R.C. 2929.14(B)(1)(g) the Court hereby orders that the specifications to Counts **[NUMBERS]** be served **[CONCURRENTLY/CONSECUTIVELY]**

18 – [RISK REDUCTION]

Use the following language to indicate the Court’s decision regarding a risk reduction sentence after considering whether the defendant is eligible for and agrees to such a sentence under 2929.143(A):

The defendant **[IS/IS NOT]** recommended for a risk reduction sentence per R.C. 2929.143

19 – [COMMUNITY CONTROL IMPOSED]

When imposing a term of community control in lieu of a prison term, the court will first state the term of community control and then detail the reserved sentence for each count in the community control imposed chart. This chart contains 7 columns, referencing each offense by count number as detailed in the conviction chart above. The columns detail (from left to right):

1. The count number of the offense
2. The reserved sentence for the offense including what type of term is reserved – e.g. 5 year minimum term, 12 month definite term.
3. The number of any counts to which the reserved term will run concurrently, if any.
4. The number of any counts to which the reserved term will run consecutively, if any.
5. Whether a mandatory fine is attached to the count – a yes/no indication.
6. The amount of fine imposed for the count. Other considerations around fines including ability to pay considerations are detailed later in the entry.
7. Any residential sanction imposed by the court – e.g. 180 jail sanction or a term in a Community Based Correctional Facility (CBCF).



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In *State v. Howard*, 2020-OHIO-3195 (decided June 9, 2020) the Supreme Court held that when placing a defendant on community control, the sentencing court needs to inform the defendant of the specific prison terms that will be imposed in the event of revocation, including whether those counts will be served consecutively or concurrently, but need not make the R.C. 2929.14(C) findings until the reserved prison term is imposed following a revocation hearing. **Those findings will always be required at the time of revocation and imposition of the reserved prison sentence, even if the sentencing Court chooses to make the findings when initially placing a defendant on community control. The R.C. 2929.14(C)(4) consecutive sentence findings language is located in instruction [NUMBER] above.**

If the presumption in favor of prison has been overcome on a SB201 qualifying offense, the bottom row of the community control imposed chart provide a space for the court to detail the reserved maximum prison term (and the reserved aggregate minimum term if any reserved terms are ordered to run consecutively). Courts should use the indefinite sentencing language in the section above to detail those terms and the necessary advisements.

A space is after the chart for the court to list any conditions/sanctions of community control, or to reference an attached sheet detailing those convictions. A sample of such attachment is provided with the draft and may be supplemented as the sentencing court sees fit.

Courts should include any payment plans/requirements for financial sanctions as part of the list of community control sanctions.

Finally, the Ad Hoc Committee intended for community control violators to be handled in a separate entry.

20 – [POST-RELEASE CONTROL]

All defendants must be notified of their post-release control (PRC) obligations. Note that pursuant to 2967.28(F)(4)(c) when a defendant is subject to multiple post release control sanctions only one term will be imposed upon release, and that will be the term of post release control that expires last as determined by the parole board. However, jurisdictions are split as to whether, at sentencing, the defendant must be informed of the term of post-release control they potentially face on each individual count. Courts in those jurisdictions requiring an advisement on each count should repeat the following language as necessary in the first line of the PRC section.

The defendant is advised that post release control is **[MANDATORY/DISCRETIONARY]** for a period of **[UP TO THREE/THREE/FIVE]** years on Count **[NUMBER(S)]**

Finally, for offenders who are being sentenced for a new felony committed while on post release control who were advised pursuant to *State v. Bishop* 156 Ohio St.3d 156 (2018), the Court has discretion to deal with the PRC at the sentencing on the new offense under R.C. 2941.141. Use the following language in this circumstance:

[OFFENDER ON POST-RELEASE CONTROL AT TIME OF NEW FELONY OFFENSE]

The Court, having found the defendant to have been on post-release control supervision at the time of the commission of the felony **[OFFENSE/OFFENSES]** in this case, hereby orders the post release control terminated and:

[PRISON IMPOSED]

the defendant is ordered to serve **[PRISON TERM]** consecutively to the prison term in this case

[COMMUNITY CONTROL IMPOSED]

That the defendant serve a **[COMMUNITY CONTROL SANCTION / COMMUNITY RESIDENTIAL SANCTION]**

/ NONRESIDENTIAL SANCTION] [CONCURRENTLY/CONSECUTIVELY] to the community control sanctions in this case

[FINANCIAL SANCTIONS GENERALLY]

As noted below, pursuant to R.C. 2929.19(B)(5) the sentencing court must consider the defendant's ability to pay when imposing certain financial sanctions under R.C. 2929.18 or R.C. 2929.32. If necessary, the court may hold a hearing on the defendant's ability to pay under R.C. 2929.18(E). Those sanctions requiring an ability to pay consideration are noted below.

See the [Ohio Supreme Court Costs & Fines Bench Card](#) for more information. Please note the language below can be further supplemented with payment schedules, apportionment, or other orders within the discretion of the Court.

Each jurisdiction retains the discretion to prioritize what order any financial sanctions, court costs, or fees are to be paid. Should the sentencing Court wish to do so, supplement the financial sanctions sections with that order of prioritization.

²¹ – [COURT COSTS & FEES]

The sentencing court is obligated under R.C. 2947.23 to impose the costs of prosecution and any jury fees, commonly referred to as court costs. The Court retains discretion and jurisdiction to waive, suspend, or modify payment of those costs and fees under R.C. 2947.23(C). The Supreme Court held that there is no legislative requirement to consider a defendant's ability to pay when imposing the costs of prosecution and jury fees under 2947.23. See *State v. Taylor*, Slip Opinion No. 2020-OHIO-3514 (Decided July 2, 2020). The decision to waive, modify, or suspend payment of those costs of prosecution may be made with consideration of the defendant's ability to pay, and as such that language has been included in the waiver option. NOTE - The Court must consider the defendant's present and future ability to pay in imposing any other financial sanction under 2929.18 and any fine imposed pursuant to R.C. 2929.32. See R.C. 2929.19(B)(5).

() **[COURT COSTS/FEES IMPOSED]**

The Court orders that the defendant shall pay the costs of prosecution and any jury fees permitted pursuant to R.C. 2947.23, **[INCLUDING \$[AMOUNT] to [ENTITY]/AS DETERMINED BY THE CLERK OF COURTS]**. If the defendant fails to pay that judgment or fails to timely make payments towards that judgment under a payment schedule approved by the Court, the Court may order the defendant to perform community service in an amount of not more than forty hours per month until the judgment is paid or until the Court is satisfied that the defendant is in compliance with the approved payment schedule.

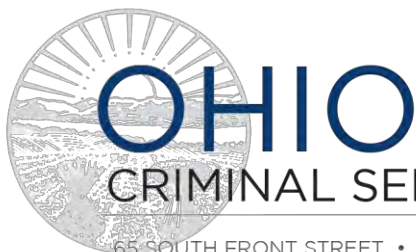
If the Court orders the defendant to perform the community service, the defendant will receive credit upon the judgment at the specified hourly credit rate per hour of community service performed, and each hour of community service performed will reduce the judgment by that amount.

() **[COURT COSTS/FEES WAIVED]**

Upon the record before the Court and any evidence presented, and having considered the defendant's present and future ability to pay, the Court orders that the costs of prosecution and any jury fees in this case shall be waived.

() **[APPOINTED COUNSEL FEES] (requires ability to pay consideration)**

Upon the record before the Court and any evidence presented, and having considered the defendant's present and future ability to pay, the Court finds pursuant to R.C. 2941.51(D) that the defendant is able to pay some or all



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of the costs their legal representation in this case and orders the defendant to pay **[\$[AMOUNT]]** to **[ENTITY]**.

() **[COSTS OF SUPERVISION] R.C. 2929.18(A)(5)(a)(i) (req. ability to pay consideration)**

Upon the record before the Court and any evidence presented, and having considered the defendant's present and future ability to pay, the Court finds pursuant to R.C. 2929.18 that the defendant is able to pay some or all of the costs of supervision in this case and orders the defendant to pay **[\$[AMOUNT]]** to **[ENTITY]**.

() **[CONFINEMENT COSTS] R.C. 2929.18(A)(5)(a)(ii) and (b) (req. ability to pay consideration)**

Upon the record before the Court and any evidence presented, and having considered the defendant's present and future ability to pay, the Court finds pursuant to R.C. 2929.18 that the defendant is able to pay some or all of the costs of their confinement in this case and orders the defendant to pay **[\$[AMOUNT]]** to **[ENTITY]**.

() **[COSTS OF IMMOBILIZING/DISABLING DEVICE] R.C. 2929.18(A)(5)(a)(iii) (req. ability to pay consideration)**

Upon the record before the Court and any evidence presented, and having considered the defendant's present and future ability to pay, the Court finds pursuant to R.C. 2929.18 that the defendant is able to pay some or all of the **[TYPE OF DEVICE]** ordered to be used pursuant to R.C. 4510.13 and orders the defendant to pay **[\$[AMOUNT]]** to **[ENTITY]**.

() **[REIMBURSEMENT FOR CONTROLLED SUBSTANCE TEST] R.C. 2925.511**

The Court finds that defendant has been convicted of a drug abuse offense, and subsequently held a hearing to determine the amount of cost incurred in having tests conducted to confirm the presence of a controlled substance in this case pursuant to R.C. 2925.511. Upon the record of the Court and any evidence presented, the Court orders that the defendant pay **[\$[AMOUNT]]** to **[ENTITY]**.

() **[REIMBURSEMENT FOR ARSON INVESTIGATION COSTS] R.C. 2929.71 (requires ability to pay consideration)**

The Court finds that defendant has been convicted of an arson offense, and subsequently held a hearing to determine the amount of costs incurred in investigating and prosecuting the offense in this case pursuant to R.C. 2929.71. Upon the record of the Court and any evidence presented, the Court finds by a preponderance of the evidence that the following costs were incurred in the arson investigation in this case and that the offender has assets available for reimbursement purposes, and therefore orders that the defendant pay **[\$[AMOUNT]]** to **[ENTITY]**. (repeat as necessary)

22 – [RESTITUTION]

A victim is entitled to restitution under Art. I §10a(7) of the Ohio Constitution. Courts may order this restitution as part of the sentence in a case. **If restitution is contested by the defendant or victim, the Court must hold a hearing on the matter** pursuant to R.C. 2929.18(A)(1). Once the court has determined the amount of restitution, if any, use the following language to memorialize the order in the entry. Please note the language below can be further supplemented with payment schedules, apportionment, or other orders within the discretion of the Court. When legislative enactment of the provisions of Art. I §10a takes place, this language and instruction will be updated to reflect any changes to the restitution statutes.

The Court must consider the defendant's present and future ability to pay in making a restitution order pursuant to R.C. 2929.19(B)(5). Courts should check conform to the holdings in their local appellate district as to the scope of that consideration and the necessary record in the entry.



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[RESTITUTION ORDERED]

[BY STIPULATION OF THE PARTIES / HAVING HELD A RESTITUTION HEARING PURSUANT TO R.C. 2929.18] and having considered the defendant’s present and future ability to pay, the defendant is ordered to make restitution in the amount of **[\$[AMOUNT] to [ENTITY]. (repeat as necessary) [IF HEARING IS NECESSARY, COURT SHOULD DETAIL EVIDENCE CONSIDERED AND FINDINGS MADE]**

This order of restitution by the Court can be converted to a civil judgement and collected by the victim through a civil action.

[RESTITUTION NOT ORDERED]

Having held a restitution hearing pursuant to R.C. 2929.18 and having considered the defendant’s present and future ability to pay, the Court does not order restitution as to Count **[NUMBER]**, due to the following: **[DETAIL EVIDENCE CONSIDERED AND FINDINGS MADE] (repeat as necessary)**

23 – [FINES]

Columns are provided for fines to be imposed in both the prison imposed and community control charts above. If any fine is imposed, the court must assess the defendant’s present and future ability to pay pursuant to R.C. 2929.19(B)(5) and note that consideration in the entry with the language below. Please note the language below can be further supplemented with payment schedules, apportionment, or other orders within the discretion of the Court.

[FINES ORDERED]

Upon the record before the Court and any evidence presented, and having considered the defendant’s present and future ability to pay, the Court finds that the defendant is able to pay a fine, and imposes a fine as listed above.

In cases with multiple counts and fines imposed and where the Court may wish to waive the fines with regards to some counts and not others, the following chart is provided to supplement the record:

COUNT	MANDATORY FINE Y/N	AMOUNT OF FINE IMPOSED	FINE WAIVED Y/N

Language regarding any affidavit of indigency is included in this section. This language may be re-used or referenced with regard to other financial sanctions. Note the filing of an affidavit in the entry for the record if one is filed.

[FINES NOT ORDERED/WAIVED]

[AFFIDAVIT OF INDIGENCY]

The defendant has filed an affidavit of indigency with the court.

[INABILITY TO PAY]

Upon the record before the Court and any evidence presented, and having considered the defendant’s



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present and future ability to pay, the Court finds that the defendant is indigent or otherwise is unable to pay and orders that the fine(s) **[ON COUNT #]/[IN THIS CASE]** be waived.

NOTE: Community service may be ordered toward credit for payment of fines in felony cases under 2951.02(B) if the defendant requests the opportunity and the court finds the defendant financially unable to pay the fines. See that section for the requirements if the defendant requests this option and include the language regarding community service from the Costs & Fees instruction above.

24 – [LICENSE SUSPENSION]

Where a license suspension is imposed, note that suspension for the record. This is in addition to a separate BMV form that may be submitted to the court and sent to BCI.

The defendant's DRIVERS LICENSE IS SUSPENDED for a period of **[TERM]** beginning on **[DATE]**. This is a **[CLASS _____/UNCLASSIFIED]** suspension. The Clerk is ordered to report this information to the Bureau of Motor Vehicles.

() **[POINTS ON LICENSE]**

The defendant will subject to having **[NUMBER OF POINTS]** assessed against their driver's license as a result of a conviction for **[COUNT NUMBER] [OFFENSE LEVEL AND CODE SECTION]**. (repeat per applicable count)

25 – [FORFEITURE SPECIFICATION]

Where property other than contraband or proceeds obtained from the offense are subject to a forfeiture specification, the Court must decide of the proportionality of the forfeiture under R.C. 2981.09.

Pursuant to the R.C. 2941.1417(A) forfeiture specification to Count **[NUMBER]**, the defendant shall forfeit their interest in **[PROPERTY]** to **[ENTITY]** to be disposed of pursuant to R.C. 2981.12.

() **[NON-CONTRABAND/PROCEEDS]**

The Court finds that, pursuant to R.C. 2981.09, the forfeiture(s) is/are proportionate to the offense committed.

26 – [PROPERTY DISPOSITION]

Disposition of property other than contraband or property subject to forfeiture should be limited to agreement of the parties. Courts should insert the agreed-upon language here.

27 – [BOND]

Courts may need to use their own language for non-standard bond types, such as returning posted property to owner.

28 – [LEADS NOTIFICATION]

29 – [DISMISSED COUNTS/SPECIFICATIONS]

Where counts and/or specifications are not otherwise disposed of at the time of the plea, note any dismissed counts and/or specifications for the record in the sentencing entry.

() **[DISMISSED COUNTS/SPECIFICATIONS]**

The court hereby dismisses Count(s) **[NUMBER(S)] [PURSUANT TO THE PLEA/BY AGREEMENT OF THE PARTIES]**.



30 – [REMAND/CONVEY]

Language for courts who do not prepare a separate conveyance entry.

() **[REMAND/CONVEY]**

The defendant is remanded to the custody of **[ENTITY]** to await transport to **[ODRC/CBCF/ETC]**.

31 – [JAIL TIME CREDIT]

Courts must award credit for time served awaiting trial while being held for the case in question. If the case is being terminated for time served, indicate so in this section.

32 – [EARNED CREDIT]

Where eligible, include the following language memorializing the advisement to the defendant on the record regarding potential earned credit

The defendant was notified pursuant to R.C. 2929.14(D)(3) that they may be eligible to earn days of credit towards their incarceration under R.C. 2967.193.

33 – [REGISTRATION OFFENSES]

Use the following language with regard to the registration offenses. This is in addition to the necessary notification forms provided by BCI.

() **[SEX OFFENDER]**

The Court finds pursuant to R.C. 2950.01 that as a result of these convictions the defendant is a Tier **[NUMBER]** Sex Offender has been given written and oral notice of their responsibilities to register as a Sex Offender pursuant to R.C. 2950.04.

() **[CHILD VICTIM ORIENTED OFFENDER] (may be combined with sex offender)**

The Court finds pursuant to R.C. 2950.01 that as a result of these convictions the defendant is a Tier **[NUMBER]** Child Victim Offender has been given written and oral notice of their responsibilities to register as a Child Victim Offender pursuant to R.C. 2950.04.

NOTE: A limited number of appellate courts have held that the defendant must be informed of the community notification provisions under their registration status on the record and in the sentencing entry. If this is the case in your jurisdiction, supplement this language with acknowledgment of the notification.

() **[ARSON OFFENDER]**

The Court finds pursuant to R.C. 2909.14 that as a result of these convictions the defendant is an arson offender and the defendant was given a written and oral notice of their duties to register as an Arson Offender per R.C. 2909.14

() **[VIOLENT OFFENDER DATABASE]**

NOTE: Defendant's convicted of offenses qualifying them for the Violent Offender Database must be informed of their rights to contest the imposition of enrollment duties prior to the sentencing hearing. For further information, see the Sentencing Commission's [Violent Offender Database Guide](#).



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[PRINCIPAL OFFENDER]

The Court finds pursuant to R.C. 2903.41 that the offender was the principal offender in a qualifying offense and is a Violent Offender subject to a duty to enroll in the Violent Offender Database upon their release. The defendant has been given written and oral notice of their enrollment duties as a Violent Offender pursuant to R.C. 2903.42(C).

[NOT PRINCIPAL OFFENDER]

After a hearing conducted pursuant to R.C. 2903.42(A)(4)(a) and consideration of the factors therein, the Court finds that the offender was convicted of a qualifying offense and is a Violent Offender subject to a duty to enroll in the Violent Offender Database upon their release. The defendant has been given written and oral notice of their enrollment duties as a Violent Offender pursuant to R.C. 2903.42(C).

³⁴ – [CIVIL RIGHTS/FIREARM DISABILITIES]

Optional language regarding loss of certain civil rights and firearm disabilities to be inserted at the judge's discretion.

Defendant is informed that incarceration for a felony renders them incompetent to serve as a juror or to hold an office of honor, trust or profit, and they will be unable to vote during their period of incarceration for a felony offense R.C. 2961.01, and they will need to re-register to vote with their local board of elections upon release.

Further, pursuant to R.C. 2961.02 conviction for a felony theft offense or offense that involves fraud, deceit or theft disqualifies the defendant from holding public office, a position of public employment or serving as a volunteer with a state agency, political subdivision or certain private entities.

Defendant was informed of their disability to own or possess a firearm based on the conviction for a felony offense of violence or a felony drug offense pursuant to R.C. 2923.14.

The Court informed the Defendant that under federal law, a person convicted of a felony cannot lawfully possess a firearm pursuant to 18 U.S.C. 922(g)(1).

³⁵ – [APPEAL RIGHTS]

Note that Criminal Rule 32 requires notification of appellate rights upon conviction for "a serious offense." Best practice is to notify defendant of their appellate rights in every felony case. While some defendants may waive a right to appeal pursuant to their plea agreement, several members of the Ad Hoc Committee report a significant number of appeals being heard after pleas under 2953.08.



METHOD OF CONVICTION ENTRIES

INTRODUCTION

The Method of Conviction forms arose from an acknowledgement by the Ad Hoc Committee that to create fully featured template language for the Sentencing Entry and avoid “unforced errors” and other appellate issues necessitated also creating template language for the entry detailing how a defendant arrived at sentencing – whether by finding of guilt after a plea or a trial. We also recognized the call for uniform language made by Justice Michael Donnelly in his dissent in *State v. Dangler*, 2020-Ohio-2765 (decided May 5, 2020), which highlighted the fact that uniform entries capable of being tailored to case-specific facts would both enhance fairness in protecting defendant’s rights and efficiency in process. We examined plea entries from across the state to identify common elements, incorporating standard language while creating conditional selections for case-specific fact patterns that could arise. These templates serve both as a manner for memorializing the method of conviction and/or the plea agreement, and as a helpful resource to ensure practitioners that all necessary advisements and colloquies are conducted as part of a plea.

Pleas of both “guilty” and “no contest” are contained within a singular entry, which shares a common instructions section with a separate plea form to be used” pleas conducted under *North Carolina v. Alford*, 400 U.S. 25 (1970). An “Alford” plea is a markedly different animal from a standard “guilty” or “no contest” plea, and the language of that entry reflects the additional inquiries and colloquies which must be conducted, on the record, in those cases.

Additionally, a template entry was created to detail the verdict received after a trial, prior to sentencing. This provides a helpful reference entry for what occurred on the record when the verdict is returned in court, be it after a bench or jury trial. Memorialization of the court record at this stage also provides an easy opportunity to see verdicts between multiple counts through use of a chart.



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IN THE COMMON PLEAS COURT OF [NAME] COUNTY, OHIO

State of Ohio :

Plaintiff :

Case No. CR N

v. :

[NAME] :

PLEA ENTRY

Defendant :

CHARGES IN [INDICTMENT/INFORMATION/COMPLAINT] 1

Table with 6 columns: COUNT #, STAT OFFENSE CODE, NAME OF OFFENSE, OFFENSE LEVEL, MANDATORY Y/N, SPECIFICATIONS (NAME AND CODE SECTION)

This case came before the Court on [DATE] for plea hearing.

[DEFENDANT'S PRESENCE] 2

[DEFENDANT'S COUNSEL/WAIVER] 3

The State of Ohio, as represented by [NAME], [WAS PRESENT/APPEARED BY VIDEO].

The proceedings were recorded by [NAME OF REPORTER]/[ELECTRONIC RECORDING SYSTEM].

() [INTERPRETER] 4

() [VICTIM] 5

Defense counsel attested to having reviewed the facts and law of the case and informing the defendant of their constitutional and statutory rights and any potential defenses. The defendant indicated they were not under the influence of drugs or alcohol, that they were not taking any prescription medications which would affect their ability to understand the nature of the proceedings, and that they were completely satisfied with the legal representation and advice they received from defense counsel. The defendant then stated they wished to withdraw their previously entered general plea of "Not Guilty" and enter a

() [PLEA OF GUILTY] / [PLEA OF NO CONTEST] 6 to:



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COUNT #	STIPULATED LESSER INCLUDED OFFENSE	STAT. OFFENSE CODE	NAME OF OFFENSE	OFFENSE LEVEL	MAXIMUM PENALTY	PRISON MANDATORY (Y/N)	PRISON PRESUMPTION (Y/N)	REGISTRATION OFFENSE (Y/N)	SPECIFICATION (Y/N)
NON-LIFE INDEFINITE AGGREGATE MINIMUM TERM AND MAXIMUM TERM (if applicable)									
TOTAL STATED PRISON TERM (add any time for specifications)									

[GUILTY PLEA]⁶

[NO CONTEST PLEA]⁶

[JOINT RECOMMENDATION]⁷

[ADDITIONAL TERMS OF JOINT RECOMMENDATION]

[AGREED UPON SENTENCE]

[STATE'S RECOMMENDATION]⁸

[MANDATORY TERMS]⁹

[PRESUMPTIVE PRISON TERMS]¹⁰

[OVI PENALTIES]¹¹

[NON-LIFE FELONY INDEFINITE SENTENCING]¹²

[COMMUNITY CONTROL]¹³

[REGISTRATION OFFENSES]¹⁴

[POST-RELEASE CONTROL]¹⁵

OFFENSE LEVEL	POST-RELEASE CONTROL PERIOD	OFFENSE LEVEL	POST RELEASE CONTROL PERIOD
<input type="checkbox"/> F1	Five Years – Mandatory	<input type="checkbox"/> F3	Up to Three Years – Optional
<input type="checkbox"/> Felony Sex Offense	Five Years – Mandatory	<input type="checkbox"/> F4	Up to Three Years – Optional
<input type="checkbox"/> F2	Three Years – Mandatory	<input type="checkbox"/> F5	Up to Three Years – Optional
<input type="checkbox"/> F3 Offense of Violence	Three Years – Mandatory	<input type="checkbox"/> OTHER	_____

The Court explained, and the defendant acknowledged the applicable post-release control obligations on each count as listed in the chart above, and that in the case of multiple offenses, only the longest single term of post-release control will be imposed for the case, pursuant to R.C. 2967.28(F)(4)(c). The Adult Parole Authority will administer the post-release control pursuant to R.C. 2967.28, and that any violation of a post-release control condition could result in more restrictive non-prison sanctions, a longer period of supervision or control up to a specified maximum, and/or reimprisonment for up to nine months at a time. The prison term(s) for all post-release control violations may not exceed one-half of the prison term originally imposed.

If any violation of post-release control constitutes a felony, the defendant may be prosecuted, convicted and sentenced on that new felony. The court in that new felony case may terminate the term of post-release control in this case and either: (1) in addition to any prison term imposed for the new felony, impose a consecutive prison term for the post-release control violation of either 12 months or the amount of time left on post-release control, whichever is greater, or (2) impose community control sanctions for the post-release control violation to be served concurrently or consecutively to any community control sanctions imposed for the new felony.

[FINES] ¹⁶

Each count being plead to carries a potential fine of:

OFFENSE LEVEL	POTENTIAL FINE	OFFENSE LEVEL	POTENTIAL FINE
<input type="checkbox"/> Agg, Murder	Up to \$25,000	<input type="checkbox"/> F3	Up to \$10,000
<input type="checkbox"/> Murder	Up to \$15,000	<input type="checkbox"/> F4	Up to \$5,000
<input type="checkbox"/> F1	Up to \$20,000	<input type="checkbox"/> F5	Up to \$2,500
<input type="checkbox"/> F2	Up to \$15,000	<input type="checkbox"/> OTHER	_____

[MANDATORY FINES] ¹⁶

[COSTS/FINANCIAL SANCTIONS]

The Court informed the defendant of the potential fine on each count, that the defendant will be responsible for the costs of prosecution and may also be required to pay restitution, fines, and/or costs of all sanctions imposed on each count, and that imposition of financial sanctions would constitute a civil judgment against the defendant.

[LICENSE SUSPENSION] ¹⁷

[CITIZENSHIP] ¹⁸

The defendant **[IS/IS NOT]** a citizen of the United States of America. The Court explained, and the defendant acknowledged that if the defendant is not a citizen, conviction for the offense(s) being pleaded to may have consequences of deportation, including potential mandatory deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. The Court explained, and the defendant acknowledged that if they are not a citizen of the United States that they should speak with their attorney or immigration counsel before entering the guilty plea about those potential consequences. The defendant attested that they had spoken with their lawyer and/or immigration counsel, who has investigated the issue and advised them on these consequences.

The Court then inquired as to whether the defendant had any questions, and gave the defendant an opportunity to confer with defense counsel prior to entering their plea. The defendant indicated they wished for the court to accept the plea at that time.



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[DEFENDANT SIGNATURE]¹⁹

I, the undersigned defendant, being of competent mind and not under the influence of any substance that could impair or influence my judgement, understand that the Court upon acceptance of my **[PLEA OF GUILTY] [NO CONTEST PLEA]** may proceed with judgment and sentence. I hereby assert that no person has threatened me, promised me leniency, or in any other way coerced or induced me to plead **[GUILTY] [NO CONTEST]** as indicated above; my decision to plead **[GUILTY] [NO CONTEST]** hereby placing myself completely and without reservation of any kind upon the mercy of the Court with respect to punishment, represents the free and voluntary exercise of my own will and best judgment. I am completely satisfied with the legal representation and advice I have received from my counsel. I understand that I have a limited appeal as a matter of right from my plea and sentence within thirty days of the filing of my judgment of conviction.

DEFENDANT: _____

DATE: _____

[DEFENSE COUNSEL SIGNATURE]¹⁹

I hereby certify that I have counseled my client to the best of my professional ability with respect to the facts and law of this case. I have also diligently investigated their cause and assertions and possible defenses and have fully discussed these matters with my client. I represent my client is competent to proceed to change their plea(s), as indicated hereinabove, and, in my opinion, that they have acted knowingly, voluntarily, and intelligently in such matter.

ATTORNEY FOR DEFENDANT: _____

DATE: _____

[ENTRY SIGNATURES]¹⁹

The Court, having personally addressed the defendant on the record, found the plea to be voluntarily and intelligently made, with full knowledge of the consequences thereof, including waivers of all applicable rights and defenses and with understanding of maximum penalties. Having been fully advised as to the facts of the case by the prosecuting attorney¹, the Court accepted the defendant's plea(s) of **[GUILTY/NO CONTEST]** as to each count and found the defendant GUILTY.

Upon recommendation of the Prosecuting Attorney, in consideration of said plea(s) of **[GUILTY/NO CONTEST]** the Court hereby enters a Nolle Prosequi as to **[NUMBER OF DISMISSED COUNTS/SPECIFICATIONS]**

() **[UNRULED UPON MOTIONS]²⁰**

APPROVED:¹⁹

[SIGNATURE] _____

[PRINT NAME] _____

Asst. Prosecuting Attorney

JUDGE: _____

[SIGNATURE] _____

[PRINT NAME] _____

Attorney for Defendant

DATE: _____

¹ Pursuant to R.C. 2937.07, Courts accepting a plea to a misdemeanor, other than a minor misdemeanor with no prior minor misdemeanor convictions, must also inquire of the defendant as to any extenuating circumstances that may exist prior to accepting the plea and finding the defendant guilty.



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IN THE COMMON PLEAS COURT OF [NAME] COUNTY, OHIO

State of Ohio :
Plaintiff : Case No. CR N
v. :
[NAME] : GUILTY PLEA via North Carolina v. Alford
Defendant : 400 U.S. 25 (1970)

CHARGES IN [INDICTMENT/INFORMATION/COMPLAINT] 1

Table with 6 columns: COUNT, STATUTORY OFFENSE CODE, NAME OF OFFENSE, OFFENSE LEVEL, MANDATORY Y/N, SPECIFICATIONS (NAME AND CODE SECTION)

This case came before the Court on [DATE] for plea hearing.
[DEFENDANT'S PRESENCE] 2
[DEFENDANT'S COUNSEL/WAIVER] 3
The State of Ohio, as represented by [NAME], [WAS PRESENT/APPEARED BY VIDEO].
The proceedings were recorded by [NAME OF REPORTER]/[ELECTRONIC RECORDING SYSTEM].
() [INTERPRETER] 4
() [VICTIM] 5

Defense counsel attested to having reviewed the facts and law of the case and informing the defendant of their constitutional and statutory rights and any potential defenses. The defendant indicated they were not under the influence of drugs or alcohol, that they were not taking any prescription medications which would affect their ability to understand the nature of the proceedings, and that they were completely satisfied with the legal representation and advice they received from defense counsel.

The defendant then stated they wished to withdraw their previously entered general plea of "Not Guilty" and enter a GUILTY PLEA VIA NORTH CAROLINA V. ALFORD 6 to:



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COUNT	STIPULATED LESSER INCLUDED OFFENSE	STAT. OFFENSE CODE	NAME OF OFFENSE	OFFENSE LEVEL	MAXIMUM PENALTY	PRISON MANDATORY (Y/N)	PRISON PRESUMPTION (Y/N)	REGISTRATION OFFENSE (Y/N)	SPECIFICATION (Y/N)
NON-LIFE INDEFINITE AGGREGATE MINIMUM TERM AND MAXIMUM TERM (if applicable)									
TOTAL STATED PRISON TERM (add any time for specifications)									

The Court inquired of the defendant as to the reasons they wished to enter an “Alford” plea. The Court explained and the defendant acknowledged that in entering this plea they were waiving a number of substantial and important constitutional, statutory and procedural rights, which include, but are not limited to, the right to a trial including trial by jury, the right to confront witnesses against them, the right to have compulsory subpoena process for obtaining witnesses in their favor, the right to require the State to prove their guilt beyond a reasonable doubt on each crime herein charged at a trial at which they cannot be compelled to testify against themselves, the right to present any applicable defenses, and the right to appeal the verdict and rulings of the Court made before or during the trial, should those rulings or the verdict be against their interests. The defendant indicated to the court that despite their claimed innocence of the crimes charged, they acknowledged the strength of the evidence against them and that they felt it was in their best interests to waive those rights and to enter this plea in order to avoid the consequence of a trial and the substantial certainty of a greater penalty. The Court inquired of the State as to the facts of the case, and those facts were read into the record. The **[DEFENDANT/DEFENDANT AND DEFENSE COUNSEL]** were given the opportunity to address the facts as read by the State.

[JOINT RECOMMENDATION] ⁷

[ADDITIONAL TERMS OF JOINT RECOMMENDATION]

[AGREED UPON SENTENCE]

[STATE’S RECOMMENDATION] ⁸

[MANDATORY TERMS] ⁹

[PRESUMPTIVE PRISON TERMS] ¹⁰

[OVI PENALTIES] ¹¹

[NON-LIFE FELONY INDEFINITE SENTENCING] ¹²

[COMMUNITY CONTROL] ¹³

[REGISTRATION OFFENSES] ¹⁴

[POST-RELEASE CONTROL] ¹⁵



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OFFENSE LEVEL	POST-RELEASE CONTROL PERIOD	OFFENSE LEVEL	POST RELEASE CONTROL PERIOD
<input type="checkbox"/> F1	Five Years – Mandatory	<input type="checkbox"/> F3	Up to Three Years – Optional
<input type="checkbox"/> Felony Sex Offense	Five Years – Mandatory	<input type="checkbox"/> F4	Up to Three Years – Optional
<input type="checkbox"/> F2	Three Years – Mandatory	<input type="checkbox"/> F5	Up to Three Years – Optional
<input type="checkbox"/> F3 Offense of Violence	Three Years – Mandatory	<input type="checkbox"/> OTHER	_____

The Court explained, and the defendant acknowledged the applicable post-release control obligations on each count, and that in the case of multiple offenses, only the longest single term of post-release control will be imposed for the case, pursuant to R.C. 2967.28(F)(4)(c). The Adult Parole Authority will administer the post-release control pursuant to R.C. 2967.28, and that any violation of a post-release control condition could result in more restrictive non-prison sanctions, a longer period of supervision or control up to a specified maximum, and/or reimprisonment for up to nine months at a time. The prison term(s) for all post-release control violations may not exceed one-half of the prison term originally imposed.

If any violation of post-release control constitutes a felony, the defendant may be prosecuted, convicted and sentenced on that new felony. The court in that new felony case may terminate the term of post-release control in this case and either: (1) in addition to any prison term imposed for the new felony, impose a consecutive prison term for the post-release control violation of either 12 months or the amount of time left on post-release control, whichever is greater, or (2) impose community control sanctions for the post-release control violation to be served concurrently or consecutively to any community control sanctions imposed for the new felony.

[FINES] ¹⁶

Each count being plead to carries a potential fine of:

OFFENSE LEVEL	POTENTIAL FINE	OFFENSE LEVEL	POTENTIAL FINE
<input type="checkbox"/> Agg, Murder	Up to \$25,000	<input type="checkbox"/> F3	Up to \$10,000
<input type="checkbox"/> Murder	Up to \$15,000	<input type="checkbox"/> F4	Up to \$5,000
<input type="checkbox"/> F1	Up to \$20,000	<input type="checkbox"/> F5	Up to \$2,500
<input type="checkbox"/> F2	Up to \$15,000	<input type="checkbox"/> OTHER	_____

[MANDATORY FINES] ¹⁶

[COSTS/FINANCIAL SANCTIONS]

The Court, and the defendant acknowledged that they may also be required to pay restitution, fines, fees, and/or the costs of supervision and sanctions imposed upon on them. The imposition of financial sanctions would constitute a judgment against the defendant.

[LICENSE SUSPENSION] ¹⁷

[CITIZENSHIP] ¹⁸

The defendant [IS/IS NOT] a citizen of the United States of America. The Court explained, and the defendant acknowledged that if the defendant is not a citizen, conviction for the offense(s) being pleaded to may have consequences of deportation, including potential mandatory deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. The Court explained, and the defendant acknowledged that if they are not a citizen of the United States that they should speak with their attorney or immigration counsel before



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entering the guilty plea about those potential consequences. The defendant attested that they had spoken with their lawyer and/or immigration counsel, who has investigated the issue and advised them on these consequences.

The Court then inquired as to whether the defendant had any questions, and gave the defendant an opportunity to confer with defense counsel prior to entering their plea. The defendant indicated they wished for the court to accept the plea at that time.

[DEFENDANT SIGNATURE] ¹⁹

I, the undersigned defendant, being of competent mind and not under the influence of any mind-altering substance, understand that the Court, upon acceptance of my **plea via North Carolina v. Alford**, may proceed with judgment and sentence. While I assert my innocence to the crimes charged, I acknowledge the strength of the case against me and feel that this plea is in my best interests, and enter into this plea to avoid this risks and potential of trial. I hereby assert that no person has threatened me, promised me leniency, or in any other way coerced or induced me to plead as indicated above; my decision to plead hereby places myself completely and without reservation of any kind upon the mercy of the Court with respect to punishment, represents the free and voluntary exercise of my own will and best judgment. I am completely satisfied with the legal representation and advice I have received from my counsel. I understand that I have a limited appeal as a matter of right from my plea and sentence within thirty days of the filing of my judgment of conviction.

DEFENDANT: _____

[DEFENSE COUNSEL SIGNATURE] ¹⁹

I hereby certify that I have counseled my client to the best of my professional ability with respect to the facts and law of this case. I have also diligently investigated their cause and assertions and possible defenses. I represent my client is competent to proceed to change their plea(s), as indicated hereinabove, and, in my opinion, that they have acted knowingly, voluntarily, and intelligently in such matter.

ATTORNEY FOR DEFENDANT: _____

[ENTRY SIGNATURES] ¹⁹

The Court, having personally addressed the defendant on the record, found the plea to be voluntarily and intelligently made, with full knowledge of the consequences thereof, including waivers of all applicable rights and defenses and with understanding of maximum penalties. Having been fully advised as to the facts of the case by the prosecuting attorney², the Court accepted the defendant's ALFORD PLEA as to each count and found the defendant GUILTY.

Upon recommendation of the Prosecuting Attorney, in consideration of said plea(s) the Court hereby enters a Nolle Prosequi as to **[NUMBER OF DISMISSED COUNTS/SPECIFICATIONS]**

() **[UNRULED UPON MOTIONS]** ²⁰

APPROVED:

² Pursuant to R.C. 2937.07, Courts accepting a plea to a misdemeanor, other than a minor misdemeanor with no prior minor misdemeanor convictions, must also inquire of the defendant as to any extenuating circumstances that may exist prior to accepting the plea and finding the defendant guilty.



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[SIGNATURE] _____

[PRINT NAME] _____

Asst. Prosecuting Attorney

JUDGE: _____

[SIGNATURE] _____

[PRINT NAME] _____

Attorney for Defendant

DATE: _____



METHOD OF CONVICTION – PLEA ENTRIES

INSTRUCTIONS

The Uniform Method of Conviction – Plea entry was developed as an easy to use template for plea/no contest hearings. The entry serves a vital function in memorializing the plea agreements of the parties and reiterating to the defendant the rights that are being given up and the maximum penalties they could face as a result of their pleas. It may be filled out by the parties and presented to the court at the time of the change of plea. **The Method of Conviction – Plea form should NOT be viewed as a replacement for a thorough, on the record colloquy between the court and the defendant.** Criminal Rule 11(C)(2) requires that the trial court personally address the defendant to determine that the plea is being knowing, voluntarily, and intelligently made, and that the defendant understands the effect of the plea and the numerous rights that are being waived. The language of the entry is intended to reflect and supplement the colloquy that occurred. As with the Uniform Sentencing Entry, the document may be supplemented with additional language as the court deems necessary.

¹ – [CHARGES IN INDICTMENT/INFORMATION/COMPLAINT]

This section of the entry begins with a six-column chart detailing all charges laid out in the charging instrument:

1. The count number of the offense
2. The statutory offense code - e.g. 2913.02(A)
3. The name of the offense - e.g. Theft
4. The offense level described simply as F# - e.g. F5
5. Whether the offense carries a mandatory prison term
6. Any specifications attached to the count by specification number, name, and code section 1- 3yr Firearm 2941.145

² – [DEFENDANT’S PRESENCE]

Note the defendant’s presence or absence for the record.

() **[DEFENDANT PRESENT]**

The defendant was present in the courtroom.

Pursuant to Criminal Rule 43, a defendant may waive their physical presence at a criminal proceeding either orally on the record or in writing, and participate in the proceeding via remote contemporaneous video technology. See Criminal Rule 43(A)(2)(a-e) for specific requirements of the video conferencing technology.

() **[DEFENDANT NOT PRESENT - WAIVER]**

The Court notified the parties in advance of the availability of videoconferencing technology. The defendant waived their right to be physically present at the hearing **[ORALLY/IN WRITING]** pursuant to Crim Rule 43(A)(3) and the proceedings were conducted via remote contemporaneous video technology that allowed for the defendant to see and hear the proceedings, to speak and be heard by the court and the parties, and to communicate with counsel privately.

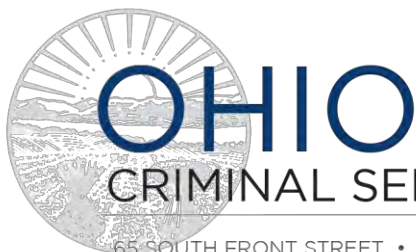
³ – [COUNSEL FOR DEFENDANT/WAIVER]

() **[DEFENDANT HAS COUNSEL]**

Counsel for the defendant, **[NAME]**, **[WAS PRESENT/APPEARED BY VIDEO]**.

() **[PRO SE DEFENDANT]**

Defendants have a sixth amendment right to waive their right to counsel and represent themselves. The request



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must be unequivocal and the trial court must conduct an inquiry to insure the defendant is aware of the consequence of giving up their right to counsel and of the “dangers and disadvantages of self-representation” – including specific facts and circumstances about the defendant’s situation or charges that affect the decision to waive counsel. The request and waiver inquiry must take place on the record pursuant to Crim R 22, and in “serious offenses” (felonies), that waiver must also be in writing pursuant to Crim R 44.

[PRIOR WAIVER]

At a hearing on [DATE], the defendant requested to waive their right to counsel and represent themselves. The Court conducted an inquiry on the record and found the waiver to be knowingly, intelligently, and voluntarily made, and the waiver was also memorialized in writing at that time.

[WAIVER AT HEARING]

The defendant expressed on the record a request to represent themselves in the proceedings. The Court then conducted an inquiry into the reasons thereof and made the defendant aware of the benefits of having counsel and the dangers and disadvantages of proceeding pro se. After the inquiry, the Court found that the defendant was making a knowing, intelligent, and voluntary waiver of the right to counsel, and allowed the defendant to proceed without representation. This waiver was memorialized in writing after the inquiry on the record.

⁴ – [INTERPRETER QUALIFICATION]

Language for use when interpreter is necessary at the plea hearing. For additional information about interpreters, see the [Ohio Supreme Court Interpreter Bench Notes](#).

The Court having previously inquired and found, pursuant to R.C. 2311.14 and Sup.R. 88 that an interpreter was necessary to assist the Defendant in understanding the proceedings. The [CERTIFIED/PROVISIONALLY-QUALIFIED/REGISTERED/LANGUAGE-SKILLED] interpreter [NAME] was appointed and sworn on the record.

⁵ – [VICTIM INQUIRY]

In crimes involving a victim, Courts wishing to include language indicating that the victim has been consulted pursuant to Marsy’s Law should do so here. When implementation language is passed, this Entry will be updated if necessary to reflect the statutory requirements.

[VICTIM PRESENT]

The [VICTIM(S)/VICTIM REPRESENTATIVE(S)] was/were present at the hearing and was/were given the opportunity to be heard.

[VICTIM NOT PRESENT]

The [VICTIM(S)/VICTIM REPRESENTATIVE(S)] was/were not present at the hearing, and the Court inquired as to whether they had been notified of the hearing and given

⁶ – [PLEA OF GUILTY/PLEA OF NO CONTEST CHART]

The Method of Conviction – Plea entry contains a chart to memorialize the counts being pled to in the case. The chart has ten columns, laying out the following

1. The count number of the offense
2. Whether the count being pled to is a stipulated lesser-included offense
3. The statutory offense code e.g. 2913.02(A)
4. The name of the offense e.g. Theft
5. The offense level described simply as F# - e.g. F5



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6. The maximum potential penalty for the offense (see below)
7. Whether the offense carries a mandatory prison term
8. Whether the offense carries a presumption of a prison term
9. Whether the offense is subject of registration e.g. a sexually oriented offense
10. Any specifications to the offense being pled to by count and specification number, as detailed in the initial charges chart.

Immediately following the plea chart is the language memorializing the rights waiver portions of the plea. Courts should select the appropriate option and insert the language into the form. Note that the list of waivers provides the minimum language necessary and is not exhaustive.

[GUILTY PLEA]

The Court explained, and the defendant understood that the guilty plea(s) to the crime(s) specified constitute(s) both an admission of guilt and a waiver of any and all constitutional, statutory, or factual defenses, and that by pleading "Guilty", they waive a number of substantial and important constitutional, statutory and procedural rights, which include, but are not limited to, the right to a trial including trial by jury, the right to confront witnesses against them, the right to have compulsory subpoena process for obtaining witnesses in their favor, the right to require the State to prove their guilt beyond a reasonable doubt on each crime herein charged at a trial at which they cannot be compelled to testify against themselves, the right to present any applicable defenses, and the right to appeal the verdict and rulings of the Court made before or during the trial, should those rulings or the verdict be against their interests.

[NO CONTEST PLEA]

The Court explained, and the defendant understood that a plea of no contest is not an admission of their guilt but is an admission of the truth of the facts alleged in the Indictment, Bill of Information, or Complaint and such plea or admission shall not be used against them in any subsequent civil or criminal proceeding, and that by pleading no contest, they waive a number of substantial and important constitutional, statutory and procedural rights, which include, but are not limited to, the right to a trial including trial by jury, the right to confront witnesses against them, the right to have compulsory subpoena process for obtaining witnesses in their favor, the right to require the State to prove their guilt beyond a reasonable doubt on each crime herein charged at a trial at which they cannot be compelled to testify against themselves, the right to present any applicable defenses, and the right to appeal the verdict and rulings of the Court made before or during the trial, should those rulings or the verdict be against their interests.

NOTE: The "Maximum Potential Penalty"

Criminal Rule 11(C)(2)(a) requires that the Court personally address the defendant during the plea colloquy to ensure the plea is being knowingly, intelligently, and voluntarily made with "an understanding of the nature of the charges and the maximum penalty involved." The Supreme Court interpreted this provision in *State v. Johnson*, 40 Ohio St. 3d 130 (1988), to mean the maximum penalty for each crime being plead to. The plea chart allows this to be stated per count as a term of months or years, or in the case of life sentence offenses, a term of years to life or life without parole (LWOP). With the recent changes to felony sentencing brought about in 132 GA SB201, it was prudent to include an additional row to detail the "aggregate minimum" and "maximum term" a defendant subject to a non-life felony indefinite prison term (a "Reagan Tokes" sentence) may face, as it may not be tied to one specific count. This will require a calculation of the maximum term by the Court of the maximum term if all counts were to be run consecutively. Courts should then also note the number of years for any specifications being plead to, and the additional, consecutive time for those specifications to the



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aggregate minimum and maximum terms for the “Total Stated Prison Term” row.

Additionally, the colloquy regarding the maximum penalty is not limited to potential prison terms. This form includes numerous sections that must also be reviewed with a defendant where applicable – such as registration eligible offenses (see *State v. Dangler*, Slip Opinion No. 2020-Ohio-2765, (decided May 5, 2020)), or post-release control obligations (see *State v. Bishop*, 156 Ohio St. 3d 156 (2018)).

7 – [JOINT RECOMMENDATION]

Cases where a sentence or sentencing range is being jointly recommended by the parties should have that joint recommendation laid out both on the record and memorialized in the entry. This section includes a chart to easily display the specific recommendation by count. For those cases where the parties are jointly recommending a sentencing “range” that range may be laid out in the “stated prison term” row of the chart.

Any additional conditions of the joint recommendation not covered in the chart can be laid out in narrative format directly following the chart. This might include an agreement that the defendant will not be apply for judicial release before a certain amount of time, or that the defendant agrees to make restitution on all counts of the indictment.

[JOINT RECOMMENDATION]

The Court explained, and the defendant understood that the while prosecution and defense are jointly recommending that the Court impose the following sentence(s), this joint recommendation is not binding upon the Court. The defendant was further informed that pursuant to RC 2953.08(D)(1) that if the Court accepts the joint recommendation and imposes sentence, the sentence, if authorized by law, is not subject to appellate review.

COUNT #	STATUTORY OFFENSE CODE	NAME OF OFFENSE	OFFENSE LEVEL	SENTENCE (SPECIFY DEFINITE, MINIMUM, OR LIFE)	CONCURRENT WITH CT #	CONSECUTIVE TO CT #	SPEC #
NON-LIFE INDEFINITE AGGREGATE MINIMUM TERM AND MAXIMUM TERM (if applicable)							
TOTAL STATED PRISON TERM							

[ADDITIONAL TERMS OF JOINT RECOMMENDATION]

In exchange for defendant’s pleas to the counts listed above, the parties additionally agree to the following **[DETAIL ADDITIONAL TERMS OF JOINT RECOMMENDATIONS]**.

[AGREED UPON SENTENCE]

Several jurisdictions reference an “agreed upon sentence” as one that is jointly recommended by the parties and

accepted/imposed by the court at sentencing and therefore not subject to appeal pursuant to R.C. 2953.08(D)(1). The necessary advisory language is found under **[JOINT RECOMMENDATION]** above.

8 – [STATE’S RECOMMENDATION]

In many cases, the State may make agreements with regard to the plea that are conditional to the defendant’s acceptance but not jointly recommended by the parties. For example, the state may agree to defer to the court as to the sentence entirely, to ask for only a certain number of years or range of sentence, or to defer on a judicial release application after a certain period of time. In this case, add the following language detailing the agreements made by the state.

[STATE’S RECOMMENDATION]

In exchange for defendant’s pleas to the counts listed above, the State of Ohio additionally agrees to the following **[DETAIL STATE’S RECOMMENDATIONS AS TO SENTENCING]**.

9 – [MANDATORY TERMS]

In addition to noting any charges requiring a mandatory prison term, Courts should explain the consequences of pleading to those counts as detailed below.

[MANDATORY TERMS]

The Court explained and the defendant acknowledged that mandatory prison term(s) **[IS/ARE]** required for the **[COUNT NUMBERS]** and that the defendant will not be eligible for community control sanctions, judicial release, earned days of credit, or earned reduction of the minimum term on **[THIS/THESE]** term(s).

[MANDATORY TERMS - SPECIFICATIONS]

The Court explained and the defendant acknowledged that mandatory prison term(s) **[IS/ARE]** required for the **[SPECIFICATIONS BY NUMBER AND COUNT]** and that by operation of law, the time imposed by these specifications must run consecutively to the time imposed for the underlying offense, and the defendant will not be eligible for community control sanctions, judicial release, earned days of credit, or earned reduction of the minimum term on **[THIS/THESE]** term(s). The time imposed for these specifications will be served before the defendant begins to serve the prison term for the underlying offense, which may impact the length of time before the defendant may apply for judicial release, if eligible.

[MANDATORY CONSECUTIVE PRISON TERM- FAILURE TO COMPLY]

The Court explained and the defendant acknowledged that pursuant to 2921.331(D) any prison term imposed for a conviction for Failure to Comply with an Order or Signal of Police Officer as alleged in **[COUNT NUMBER(S)]** must run consecutively to any other prison term imposed.

NOTE: Appellate districts are split as to whether this provision of law is case-specific, or whether the term must run consecutive to prison terms in other cases. Please refer to your local district case law on that issue.

[MANDATORY CONSECUTIVE PRISON TERM- 2929.14(C)(2)]

The Court explained and the defendant acknowledged that pursuant to RC 2929.19(C)(2) any prison term imposed for a conviction for **[NAME OF OFFENSE(S)]** as alleged in **[COUNT NUMBER(S)]** must run consecutively to any other prison term previously or subsequently imposed.

[MANDATORY CONSECUTIVE PRISON TERM- 2929.14(C)(3)]



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The Court explained and the defendant acknowledged that pursuant to RC 2929.19(C)(3) any prison term imposed for a conviction for **[NAME OF OFFENSE(S)]** as alleged in **[COUNT NUMBER(S)]** must run consecutively to any other prison term previously or subsequently imposed.

() **[MANDATORY JAIL TERM]**

The Court explained and the defendant acknowledged that mandatory jail term(s) **[IS/ARE]** required for convictions for **[OFFENSE TYPE AND LEVEL]**.

10 – [PRESUMPTIVE PRISON TERMS]

Use the language above to reflect that the Court explained the presumption in favor of a prison term for the appropriate offenses

The Court explained and the defendant acknowledged that there is a legal presumption in favor of imposing a prison term for **[COUNT NUMBER(S)]**.

11 – [OVI PENALTIES]

Several penalties associated with impaired driving offenses are covered in other provisions of the entry, such as mandatory prison or jail terms and consequences for the defendant’s driver’s licensure. Use the following language where necessary to indicate any additional penalties the defendant could be subject to as a result of an impaired driving conviction. See the [Garfield Heights Municipal Court Impaired Driving Law reference chart](#) for more information.

The Court explained and the defendant acknowledged that a conviction for **[NAME OF OFFENSE(S)]** as alleged in **[COUNT NUMBER(S)]** carries the following additional consequences: **[LIST SPECIFIC CONSEQUENCES FOR CHARGE]**

12 – [NON-LIFE FELONY INDEFINITE SENTENCING]

Use the following language to memorialize the Court informing the defendant of any counts subject to non-life felony indefinite sentencing (Reagan Tokes cases). For more information, see the [Sentencing Commission’s Quick Reference Guide on the topic](#).

Count(s) **[NUMBER]** are qualifying non-life felony offenses subject to indefinite sentencing. The Court explained and the defendant acknowledged that they defendant will be sentenced to a minimum term on each qualifying count as well as a maximum term for the case. Defense counsel and the Court have explained the procedures of non-life felony indefinite sentencing as outlined in R.C. 2929.19(B)(2)(c).

13 – [COMMUNITY CONTROL]

Use the following language to memorialize the advisement that an eligible defendant may be placed on community control and the consequences thereof.

The Court explained, and the defendant acknowledged, that it may impose community control sanctions upon the defendant, and that if they violate any condition of such community control sanctions, the Court may extend, up to five years, the time for which they are subject to community control sanctions, impose more restrictive sanctions, or imprison the defendant for up to the maximum term(s) allowed for the corresponding offense(s) as set forth above.

14 – [REGISTRATION OFFENSES]

In *State v. Dangler*, Slip Opinion No. 2020-Ohio-2765, (decided May 5, 2020), the court examined the extent to which an explanation of the “maximum penalty involved” must include informing the defendant of the particular Sex Offender Registration and Notification (SORN) Duties they will be subject to as a result of the conviction. Justice Donnelly’s partial dissent in the case suggested that best practices should involve a thorough discussion of the potential consequences of conviction for a registration offense. As such, we have included template language for inclusion in the plea form for the Court to review with the defendant during a plea colloquy. Only the applicable language for a particular type of registration offense need be included.

Additionally, while separate instructions are provided for Sex Offenders and Child Victim Oriented Offenders, the language may be combined into one instruction if the offense is both a sex offense and a child-victim oriented offense as the obligations are the same.

() **[SEX OFFENDER]**

The Court explained, and the defendant understood, that conviction for the offenses in **[COUNT NUMBER(S)]** mandate that defendant be subject to **[SEX]** Offender Registration and Notification Duties, and that they will be required to register in person with the sheriff of the county in which they establish residency within three days of coming into that county. They will also be required to register in person with the sheriff of the county in which they establish a place of education or employment immediately upon coming into that county. If they establish a place of education or place of employment in another state but maintain a residence in Ohio, they will also be required to register in person with the sheriff or other appropriate official in that other state immediately upon coming into that state. They will also be prohibited under 2950.034(A) from residing within 1,000 feet of any school, preschool, or child day care center.

The defendant was also informed that they must provide notice of their intent to establish residence, employment, or education to the sheriff in that county at least 20 days prior to the change and within 3 days of changing employment, and that they are required to report any international travel to the sheriff no less than twenty-one days prior to travel. They must also provide written notice in person, within 3 days, of any change in vehicle information, email addresses, internet identifiers or telephone numbers registered to or used by the defendant to the sheriff with whom they have most recently registered. As a result of this conviction, the defendant will be classified as a

() **[TIER I SEX OFFENDER]**

And will be required to comply with these requirements and to verify their address in person every twelve months for a period of fifteen years.

() **[TIER II SEX OFFENDER]**

and will be required to comply with these requirements and to verify their address in person every one-hundred and eighty days for a period of twenty-five years.

() **[TIER III SEX OFFENDER]**

and will be required to comply with these requirements and to verify their registration address in person every ninety days for life. There will also be notification to the victim and the community whenever they register or change their address.



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The defendant was also informed that failure to comply with these registration duties may result in criminal prosecution.

[CHILD VICTIM OFFENDER]

The Court explained, and the defendant understood, that conviction for the offenses in **[COUNT NUMBER(S)]** mandate that defendant be subject to **[CHILD VICTIM]** Offender Registration and Notification Duties, and that they will be required to register in person with the sheriff of the county in which they establish residency within three days of coming into that county. They will also be required to register in person with the sheriff of the county in which they establish a place of education or employment immediately upon coming into that county. If they establish a place of education or place of employment in another state but maintain a residence in Ohio, they will also be required to register in person with the sheriff or other appropriate official in that other state immediately upon coming into that state. They will also be prohibited under 2950.034(A) from residing within 1,000 feet of any school, preschool, or child day care center.

The defendant was also informed that they must provide notice of their intent to establish residence, employment, or education to the sheriff in that county at least 20 days prior to the change and within 3 days of changing employment, and that they are required to report any international travel to the sheriff no less than twenty-one days prior to travel. They must also provide written notice in person, within 3 days, of any change in vehicle information, email addresses, internet identifiers or telephone numbers registered to or used by the defendant to the sheriff with whom they have most recently registered. As a result of this conviction, the defendant will be classified as a

[CHILD VICTIM OFFENDER]

And will be required to comply with these requirements and to verify their address in person every twelve months for a period of fifteen years.

[CHILD VICTIM OFFENDER]

and will be required to comply with these requirements and to verify their address in person every one-hundred and eighty days for a period of twenty-five years.

[CHILD VICTIM OFFENDER]

and will be required to comply with these requirements and to verify their registration address in person every ninety days for life. There will also be notification to the victim and the community whenever they register or change their address.

The defendant was also informed that failure to comply with these registration duties may result in criminal prosecution

[ARSON OFFENDER]

The Court informed the defendant that conviction for the offenses in **[COUNT NUMBER(S)]** mandate that defendant be subject to Arson Offender Registration and Notification Duties. They will be required to register in person and provide information to the sheriff of their county of residence within ten days of sentencing or of their release from prison, to verify their registration annually and provide updates to any of their information at that time, and to provide written notice of any change of address if moving to a different county or state. There is a \$50 initial registration fee and a \$25 annual re-registration fee.



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The defendant was also informed that failure to comply with these registration duties may result in criminal prosecution.

[VIOLENT OFFENDER DATABASE]

The Court informed the defendant that conviction for the offenses in **[COUNT NUMBER(S)]** could result in the defendant being subject to enrollment in the Violent Offender Database. There is a presumption the defendant will be required to enroll in the database. They were further informed of their right to file a motion, in writing and prior to sentencing, to rebut that presumption by asserting they were not the principal offender in the commission of the qualifying offense and that they must prove this by a preponderance of the evidence. If they meet that burden, the Court will then continue the hearing to determine whether they should still be required to enroll based on the factors laid out in R.C. 2903.42(A)(4)(a).

If they are required to enroll in the database, the defendant must enroll in person at the sheriff’s office in their county of residence, within ten days of sentencing or release from incarceration. They must also re-enroll annually, and provide notice of any change of address within three days. These duties begin upon release from confinement and last for ten years. That period may be extended upon motion of the prosecutor if the defendant violates a condition of supervision or commits a new felony or any misdemeanor offense of violence.

The defendant was also informed that failure to comply with these registration duties may result in criminal prosecution.

15 – [POST-RELEASE CONTROL]

A chart is included to inform the defendant of the potential post-release control obligations on each count. The language then informs the defendant that while each count carries a potential post-release control obligation, they will only be subject to one post-release control obligation per case pursuant to RC 2967.28(F)(4)(c).

16 – [FINES]

A chart is provided to inform the defendant of potential fines for each count. In addition, use the following language to reflect discussion of mandatory fines during the colloquy.

[MANDATORY FINES]

A finding of guilt by the Court on **[COUNT NUMBER] [OFFENSE LEVEL AND CODE SECTION]** requires that mandatory fine be imposed

17 – [LICENSE SUSPENSION]

Insert language reflecting that the defendant has been informed of the effect a conviction might have on their driver’s license. For information on points and classes of mandatory suspensions see [the Ohio Bureau of Motor Vehicles Offense Chart here](#).

[DISCRETIONARY LICENSE SUSPENSION]

Upon conviction for **[COUNT NUMBER] [OFFENSE LEVEL AND CODE SECTION]**, the defendant may be subject to a **[CLASS]** driver’s license suspension of up to **[MAXIMUM TERM OF SUSPENSION]**. **(repeat per applicable count)**

[MANDATORY LICENSE SUSPENSION]

Upon conviction for **[COUNT NUMBER] [OFFENSE LEVEL AND CODE SECTION]**, the defendant will subject to a mandatory **[CLASS]** driver’s license suspension for up to **[MAXIMUM TERM OF SUSPENSION]**. **(repeat per**



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applicable count)

() **[POINTS ON LICENSE]**

The defendant will subject to having **[NUMBER OF POINTS]** assessed against their driver's license as a result of a conviction for **[COUNT NUMBER] [OFFENSE LEVEL AND CODE SECTION]**. **(repeat per applicable count)**

18 – [CITIZENSHIP]

This language reflects the colloquy between the Court and the Defendant regarding the potential impact of a criminal conviction on citizenship and immigration rights, and the right pursuant to the U.S. Supreme Court holding in *Padilla v. Kentucky* for the defendant to consult with trial or immigration counsel and be advised about those potential consequences. The provided language indicates the acknowledgement of the defendant on the record that they had consulted with counsel prior regarding immigration and citizenship consequences and their desire to proceed with the plea.

19 – [SIGNATURES]

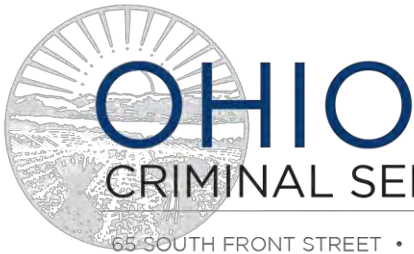
Signature lines are provided in the document for defendant to attest to their desire to enter the plea, for defense counsel to attest that they have fulfilled their obligations with regard to the case, and for the judge to sign in accepting the plea after the full Rule 11 colloquy. Best practice is for these signatures to occur in open court to the extent practicable. Signature lines are also provided next to the judge's signature for the State's representative and defense counsel to memorialize their agreement as to the plea form.

20 – [UNRULED UPON MOTIONS]

Optional language to resolve any motions still pending at the time of sentencing, for the record. Best practice in case of pleas which are required to be in writing (e.g. a not guilty by reason of insanity plea) is for those withdrawals to also be made in writing.

() **[UNRULED UPON MOTIONS]**

Any pending motions in this case are hereby disposed of in the following manner
[WITHDRAWN/DISMISSED/DENIED]



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IN THE COMMON PLEAS COURT OF **[NAME]** COUNTY, OHIO

State of Ohio :

Plaintiff :

Case No. CR N

v. :

[NAME] :

VERDICT UPON TRIAL ENTRY

Defendant :

This case came before the court on **[DATE]** for trial pursuant to and verdicts were returned on **[DATE]**.

[DEFENDANT'S PRESENCE] ¹

[DEFENDANT'S COUNSEL/WAIVER] ²

The State of Ohio, as represented by **[NAME]**, **[WAS PRESENT/APPEARED BY VIDEO]**.

The proceedings were recorded by **[NAME OF REPORTER]/[ELECTRONIC RECORDING SYSTEM]**.

() **[INTERPRETER]** ³

() **[VICTIM]** ⁴

COUNT	STATUTORY OFFENSE CODE	NAME OF OFFENSE	OFFENSE LEVEL	JURY TRIAL/BENCH TRIAL	SPECIFICATIONS (NAME AND CODE SECTION)	FOUND GUILTY Y/N/HUNG

() **[POLLING OF JURY]** ⁵

JUDGE: _____

DATE: _____



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VERDICT UPON TRIAL INSTRUCTIONS

Use this form to memorialize the verdicts returned after a trial. A chart is provided to clearly indicate the result on each count and whether the verdict was by a jury or bench trial.

¹ – [DEFENDANT’S PRESENCE]

Note the defendant’s presence or absence for the record. Pursuant to Criminal Rule 43, a defendant may waive their physical presence at a criminal proceeding either orally on the record or in writing, and participate in the proceeding via remote contemporaneous video technology. See Criminal Rule 43(A)(2)(a-e) for specific requirements of the video conferencing technology.

() **[DEFENDANT PRESENT]**

The defendant was present in the courtroom.

() **[DEFENDANT NOT PRESENT - WAIVER]**

The Court notified the parties in advance of the availability of videoconferencing technology. The defendant waived their right to be physically present at the hearing **[ORALLY/IN WRITING]** pursuant to Crim Rule 43(A)(3) and the proceedings were conducted via remote contemporaneous video technology that allowed for the defendant to see and hear the proceedings, to speak and be heard by the court and the parties, and to communicate with counsel privately.

A defendant may also be excluded from a proceeding due to disruptive behavior pursuant to Criminal Rule 43(B). Courts should note that disruptive behavior for the record, as well as any accommodations (such as use of contemporaneous video technology) made to preserve the rights of the defendant.

() **[DEFENDANT NOT PRESENT – DISRUPTIVE BEHAVIOR]**

[DETAIL DEFENDANT’S DISRUPTIVE BEHAVIOR] Due to the persistent disruptive conduct of the offender, the Court found pursuant to Criminal Rule 43(B) that the proceedings could not reasonably be conducted with the defendant present in the courtroom, and therefore ordered that the defendant be removed. The Court then proceeded with the hearing. **[NOTE ANY STEPS TAKEN TO PRESERVE RIGHTS OF DEFENDANT]**

² – [COUNSEL FOR DEFENDANT/WAIVER]

() **[DEFENDANT HAS COUNSEL]**

Counsel for the defendant, **[NAME]**, **[WAS PRESENT/APPEARED BY VIDEO]**.

() **[PRO SE DEFENDANT]**

() **[PRIOR WAIVER]**

At a hearing on **[DATE]**, the defendant requested to waive their right to counsel and represent themselves. The Court conducted an inquiry on the record and found the waiver to be knowingly, intelligently, and voluntarily made, and the waiver was also memorialized in writing at that time.

³ – [INTERPRETER QUALIFICATION]

Language for use when interpreter is necessary at the hearing. For additional information about interpreters, see the [Ohio Supreme Court Interpreter Bench Notes](#).

The Court, had previously inquired and found, pursuant to R.C. 2311.14 and Sup.R. 88 that an interpreter was necessary to assist the defendant in understanding the proceedings. The **[CERTIFIED/PROVISIONALLY-**



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QUALIFIED/REGISTERED/LANGUAGE-SKILLED interpreter **[NAME]** having been previously appointed and sworn on the record, interpreted for the defendant.

4 – [VICTIM INQUIRY]

In crimes involving a victim, Courts wishing to include language indicating that the victim was given notice and reasonable opportunity to appear may use the following language. When implementation language is passed, this Entry will be updated if necessary to reflect the statutory requirements.

() **[VICTIM PRESENT]**

The **[VICTIM(S)/VICTIM REPRESENTATIVE(S)]** was/were present at the hearing.

() **[VICTIM NOT PRESENT]**

The **[VICTIM(S)/VICTIM REPRESENTATIVE(S)]** was/were not present at the hearing, and the Court inquired as to whether they had been notified of the hearing and given an opportunity to appear.

5 – [POLLING OF JURY]

[AFTER A REQUEST BY THE DEFENSE/STATE] / [THE COURT ON ITS OWN MOTION] conducted a poll of the venire following the return of the verdict.



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INTERVENTION IN LIEU AND DIVERSION ENTRIES INTRODUCTION

In keeping with the desire to provide uniform, template language for use statewide for all criminal dispositions, we also created model entries for defendant’s granted Intervention in Lieu of Conviction (ILC) pursuant to R.C. 295.041 as well as those being accepted into a pre-trial prosecutorial diversion program pursuant to R.C. 2935.36. These entries provide a standardized form for use statewide, while recognizing the varied approaches to these programs taken throughout the state. Both entries are followed by a common instructions section which mirrors the instructions used throughout the uniform entries.

The uniform ILC entry mirrors our method of conviction- plea form with unnecessary language and conditional selections removed, and contains language reflecting advisements given at the time an ILC plea is entered. After the language recording the ILC plea colloquy, there is a section for the Court to memorialize the placement of the defendant into ILC and to document the conditions of that program, including conditions required by ILC statute, and to note any additional orders made by the court, such as a bond order or an order of restitution.

The uniform Motion for Diversion and Acceptance is provided to memorialize the post-indictment, pre-trial acceptance by the court of a defendant’s placement into a prosecutorial diversion program. It reflects the request of the court to place the case on inactive status and the defendant’s time waiver for the period in which they are participating in the prosecutorial diversion program. As we recognize the wide variety of prosecutorial diversion programs across our state, this template can be used in conjunction with our method of conviction – plea entry or any other entry where needed.



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IN THE COMMON PLEAS COURT OF **[NAME]** COUNTY, OHIO

State of Ohio :

Plaintiff :

Case No. CR N

v. :

[NAME] : INTERVENTION IN LIEU OF CONVICTION ENTRY

Defendant :

This case came before the Court on **[DATE]** for hearing on a motion for Intervention in Lieu of Conviction.

[DEFENDANT'S PRESENCE] ¹

[DEFENDANT'S COUNSEL/WAIVER] ²

The State of Ohio, as represented by **[NAME]**, **[WAS PRESENT/APPEARED BY VIDEO]**.

The proceedings were recorded by **[NAME OF REPORTER]/[ELECTRONIC RECORDING SYSTEM]**.

() **[INTERPRETER]** ³

() **[VICTIM]** ⁴

This Court finds that the defendant has been charged with the following: ⁵

COUNT	STATUTORY OFFENSE CODE	NAME OF OFFENSE	OFFENSE LEVEL	MAXIMUM PENALTY	REGISTRATION OFFENSE (Y/N)

() **[STIPULATED LESSER/AMENDED CHARGES]** ⁶

The State moved to amend and/or dismiss the following charges set forth in the indictment without the objection of defense counsel

COUNT	STIPULATED LESSER/AMENDED OFFENSE (Y/N)	DISMISSED (Y/N)	STATUTORY OFFENSE CODE	NAME OF OFFENSE	OFFENSE LEVEL	MAXIMUM PENALTY	REGISTRATION OFFENSE (Y/N)
TOTAL STATED PRISON TERM							

On [DATE] the defendant filed a motion pursuant to R.C. 2951.041 waiving their rights to a speedy trial and alleging that their drug or alcohol usage was a factor leading to the commission of the above criminal offense(s), or that at the time of committing the above criminal offense(s) the defendant had a mental illness or was a person with an intellectual disability and that mental illness or intellectual disability was a factor leading to the commission of the offense(s). The Court ordered an assessment of the defendant on [DATE] for the purpose of determining the defendant's eligibility for the program and to recommend an appropriate intervention plan. The Court has received and reviewed that assessment and finds that the defendant is an eligible candidate for Intervention in Lieu of Conviction.

Having reviewed the facts and law of their case and having been informed of their constitutional and statutory rights by counsel, the defendant indicated they wished to withdraw their previously entered general plea of "Not Guilty" and to enter a plea of guilty and waiver of speedy trial rights for the preceding offenses and to be accepted into the Intervention in Lieu of Conviction program.

The Court explained, and the defendant indicated they understood that the guilty plea(s) to the crime(s) specified constitute(s) both an admission of guilt and a waiver of any and all constitutional, statutory, or factual defenses, and that by pleading "Guilty", they waive a number of substantial and important constitutional, statutory and procedural rights, which include, but are not limited to, the right to a trial including trial by jury, the right to have that trial conducted within the statutory and constitutional speedy trial limits, the right to confront witnesses against them, the right to have compulsory subpoena process for obtaining witnesses in their favor, the right to require the State to prove their guilt beyond a reasonable doubt on each crime herein charged at a trial at which they cannot be compelled to testify against themselves, the right to present any applicable defenses, and the right to appeal the verdict and rulings of the Court made before or during the trial.

The Court explained and the defendant acknowledged the maximum penalties for the offenses being plead to as listed in the chart above, and that multiple counts could be run consecutively or concurrently by law at the discretion of the court. The Court further explained, and the defendant acknowledged, that community control sanctions could be imposed upon the defendant for those charges. The defendant was further informed that if they were to violate any condition of those community control sanctions, the Court may extend, up to five years, the time for which they are subject to community control sanctions, impose more restrictive sanctions, or imprison the defendant for up to the maximum term(s) allowed for the corresponding offense(s) as set forth above. The Court further explained that any violations of the terms and conditions of their intervention plan could result in a revocation hearing before the Court and criminal convictions for the charges above, and that if intervention were to be revoked the Court could immediately impose the criminal conviction(s) and proceed to sentencing.

The Court explained, and the defendant understood that if a prison sentence were ever imposed for the charge(s) a period of post-release control supervision is discretionary on each count for up to three years. The Adult Parole Authority would administer the post-release control pursuant to R.C. 2967.28, and any violation of a post-release control condition could result in more restrictive non-prison sanctions, a longer period of supervision or control up to the specified maximum, and/or reimprisonment for up to nine months at a time. The prison term(s) for all post-release control violations may not exceed one-half of the prison term originally imposed.

If any violation of post-release control constitutes a felony, the defendant may be prosecuted, convicted and sentenced on that new felony. The court in that new felony case may terminate the term of post-release control in this case and either: (1) in addition to any prison term imposed for the new felony, impose a consecutive prison term for the post-release control violation of either 12 months or the amount of time left on post-release control, whichever is greater, or



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(2) impose community control sanctions for the post-release control violation to be served concurrently or consecutively to any community control sanctions imposed for the new felony.

[FINES] ⁷

Each count being plead to carries a potential fine of:

OFFENSE LEVEL	POTENTIAL FINE	OFFENSE LEVEL	POTENTIAL FINE
<input type="checkbox"/> Agg. Murder	Up to \$25,000	<input type="checkbox"/> F3	Up to \$10,000
<input type="checkbox"/> Murder	Up to \$15,000	<input type="checkbox"/> F4	Up to \$5,000
<input type="checkbox"/> F1	Up to \$20,000	<input type="checkbox"/> F5	Up to \$2,500
<input type="checkbox"/> F2	Up to \$15,000	<input type="checkbox"/> OTHER	_____

The Court informed the defendant of the potential fine on each count, that the defendant will be responsible for the costs of prosecution and may also be required to pay restitution, fines, and/or costs of all sanctions imposed on each count, and that imposition of financial sanctions would constitute a civil judgment against the defendant.

[LICENSE SUSPENSION] ⁹

[CITIZENSHIP] ⁹

The defendant [IS/IS NOT] a citizen of the United States of America. The Court explained, and the defendant acknowledged that if the defendant is not a citizen, conviction for the offense(s) being pleaded to may have consequences of deportation, including potential mandatory deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States. The Court explained, and the defendant acknowledged that if they are not a citizen of the United States that they should speak with their attorney or immigration counsel before entering the guilty plea about those potential consequences. The defendant attested that they had spoken with their lawyer and/or immigration counsel, who has investigated the issue and advised them on these consequences.

The Court then inquired as to whether the defendant had any questions, and gave the defendant an opportunity to confer with defense counsel prior to entering their plea. The defendant indicated they wished for the court to accept the plea at that time.

[DEFENDANT SIGNATURE] ¹⁰

I, the undersigned defendant, being of competent mind and not under the influence of any substance that could impair or influence my judgement, understand that the Court upon acceptance of my **PLEA OF GUILTY** may proceed with judgment and sentence. I hereby assert that no person has threatened me, promised me leniency, or in any other way coerced or induced me to plead **GUILTY** as indicated above; my decision to plead **GUILTY** hereby placing myself completely and without reservation of any kind upon the mercy of the Court with respect to punishment, represents the free and voluntary exercise of my own will and best judgment. I am completely satisfied with the legal representation and advice I have received from my counsel. I understand that I have a limited appeal as a matter of right from my plea and sentence within thirty days of the filing of my judgment of conviction.

DEFENDANT: _____

DATE: _____

[DEFENSE COUNSEL SIGNATURE] ¹⁰



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I hereby certify that I have counseled my client to the best of my professional ability with respect to the facts and law of this case. I have also diligently investigated their cause and assertions and possible defenses and have fully discussed these matters with my client. I represent my client is competent to proceed to change their plea(s), as indicated hereinabove, and, in my opinion, that they have acted knowingly, voluntarily, and intelligently in such matter.

ATTORNEY FOR DEFENDANT: _____

DATE: _____

[ENTRY SIGNATURES]¹⁰

The Court, having personally addressed the defendant on the record, found the plea to be voluntarily and intelligently made, with full knowledge of the consequences thereof, including waivers of all applicable rights and defenses and with understanding of maximum penalties. Having been fully advised as to the facts of the case by the prosecuting attorney³, the Court accepted the defendant's plea(s) of **GUILTY** as to each count as well as their waiver of their statutory speedy trial rights. The Court hereby orders the proceedings stayed and that the defendant comply with all terms and conditions of the intervention in lieu plan as listed below.

() **[UNRULED UPON MOTIONS]**¹¹

APPROVED:

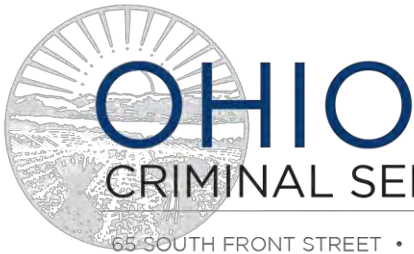
[SIGNATURE] _____
[PRINT NAME] _____
Asst. Prosecuting Attorney

JUDGE: _____

[SIGNATURE] _____
[PRINT NAME] _____
Attorney for Defendant

DATE: _____

³ Pursuant to R.C. 2937.07, Courts accepting a plea to a misdemeanor, other than a minor misdemeanor with no prior minor misdemeanor convictions, must also inquire of the defendant as to any extenuating circumstances that may exist prior to accepting the plea and finding the defendant guilty.



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INTERVENTION IN LIEU OF CONVICTION CONDITIONS

Having found the defendant to be an eligible candidate for Intervention in Lieu of Conviction, having reviewed the relevant assessments and any statements of the parties, and having accepted the defendant's guilty plea and waiver of their speedy trial rights, the Court hereby orders the proceedings in this case be stayed and that the defendant be placed under the supervision and control of **[NAME OF SUPERVISING AUTHORITY]** for **[TIME PERIOD OF SUPERVISION]** as though they were on community control. The defendant is hereby ordered to abstain from all illegal drugs and alcohol, to participate in treatment and recovery support services, and to submit to regular, random testing for drugs and alcohol, as well as to comply with the following conditions and sanctions of the defendant's intervention: **[AS LISTED BELOW] [AS LISTED ON ATTACHED FORM]**.

() **[RESTITUTION]**¹²

[BOND ORDERS]¹³

[JAIL TIME CREDIT]

The Court orders the defendant be granted **[NUMBER OF DAYS]** credit for time served up to and including date of sentencing and excluding conveyance time.

APPROVED:

JUDGE: _____

DATE: _____



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IN THE COMMON PLEAS COURT OF **[NAME]** COUNTY, OHIO

State of Ohio :

Plaintiff :

Case No. CR N

v. :

[NAME] : **MOTION FOR DIVERSION AND ACCEPTANCE ENTRY**

Defendant :

This case came before the court on **[DATE]** upon **[A JOINT MOTION / THE STATE'S MOTION]** for this Court's approval of the defendant's acceptance into the **[NAME OF DIVERSION PROGRAM]**. The undersigned parties hereby move(s) the Court to approve the defendant's acceptance into **[NAME OF DIVERSION PROGRAM]** and to place this case on inactive status with the court until such time as the defendant either completes or is terminated from said program. The defendant knowingly, voluntarily and intelligently waives their statutory and constitutional rights to a speedy trial and agrees to the tolling of all periods of limitation established by statute or by rules of court applicable to these offenses on the charges below during the period of application and while participating in the **[NAME OF DIVERSION PROGRAM]**. The defendant further agrees to pay a reasonable supervision fee established by the program. Furthermore, should the defendant leave the program for any reason, the defendant knowingly, voluntarily and intelligently waives their statutory and constitutional rights to a speedy trial during for the period until their criminal case and charge(s) are reinstated and reactivated to this Court's criminal docket.

() **[VICTIM]** ⁵

The Court finds that the application is in the interests of justice and grants the motion. The following charges and this case will be placed on inactive status on the docket. **[DIVERSION PROGRAM]** will notify the court of the defendant's successful completion or termination from the program.

[BOND ORDERS] ¹²

COUNT	STATUTORY OFFENSE CODE	NAME OF OFFENSE	OFFENSE LEVEL

APPROVED AND ACCEPTED:

[SIGNATURE] _____

[PRINT NAME] _____

Asst. Prosecuting Attorney

JUDGE: _____

[SIGNATURE] _____

[PRINT NAME] _____

Attorney for Defendant

DATE: _____

[SIGNATURE] _____

Defendant



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INTERVENTION/DIVERSION INSTRUCTIONS

The Intervention in Lieu of Conviction form mirrors the method of conviction – plea form in substance, with sections and conditional options removed which are inapplicable to ILC eligible offenses. It contains additional language reflecting the waiver of statutory speedy trial rights during for the period the defendant is participating in the program, a record of the advisement that the court can sentence on this plea if the defendant is revoked from the ILC program, and language staying the proceedings upon acceptance of the plea.

The Diversion entry provides a basic template for the many, diversion prosecutorial diversion programs that exist throughout the state. For those programs which require a guilty plea for acceptance, use the method of conviction – plea form as applicable.

¹ – [DEFENDANT’S PRESENCE]

Note the defendant’s presence or absence for the record.

() **[DEFENDANT PRESENT]**

The defendant was present in the courtroom.

Pursuant to Criminal Rule 43, a defendant may waive their physical presence at a criminal proceeding either orally on the record or in writing, and participate in the proceeding via remote contemporaneous video technology. See Criminal Rule 43(A)(2)(a-e) for specific requirements of the video conferencing technology.

() **[DEFENDANT NOT PRESENT - WAIVER]**

The Court notified the parties in advance of the availability of videoconferencing technology. The defendant waived their right to be physically present at the hearing **[ORALLY/IN WRITING]** pursuant to Crim Rule 43(A)(3) and the proceedings were conducted via remote contemporaneous video technology that allowed for the defendant to see and hear the proceedings, to speak and be heard by the court and the parties, and to communicate with counsel privately.

² – [COUNSEL FOR DEFENDANT/WAIVER]

() **[DEFENDANT HAS COUNSEL]**

Counsel for the defendant, **[NAME]**, **[WAS PRESENT/APPEARED BY VIDEO]**.

() **[PRO SE DEFENDANT]**

Defendants have a sixth amendment right to waive their right to counsel and represent themselves. The request must be unequivocal and the trial court must conduct an inquiry to insure the defendant is aware of the consequence of giving up their right to counsel and of the “dangers and disadvantages of self-representation” – including specific facts and circumstances about the defendant’s situation or charges that affect the decision to waive counsel. The request and waiver inquiry must take place on the record pursuant to Crim R 22, and in “serious offenses” (felonies), that waiver must also be in writing pursuant to Crim R 44.

() **[PRIOR WAIVER]**

At a hearing on **[DATE]**, the defendant requested to waive their right to counsel and represent themselves. The Court conducted an inquiry on the record and found the waiver to be knowingly, intelligently, and voluntarily made, and the waiver was also memorialized in writing at that time.

() **[WAIVER AT HEARING]**



The defendant expressed on the record a request to represent themselves in the proceedings. The Court then conducted an inquiry into the reasons thereof and made the defendant aware of the benefits of having counsel and the dangers and disadvantages of proceeding pro se. After the inquiry, the Court found that the defendant was making a knowing, intelligent, and voluntary waiver of the right to counsel, and allowed the defendant to proceed without representation. This waiver was memorialized in writing after the inquiry on the record.

3 – [INTERPRETER QUALIFICATION]

Language for use when interpreter is necessary at the plea hearing. For additional information about interpreters, see the [Ohio Supreme Court Interpreter Bench Notes](#).

The Court having previously inquired and found, pursuant to R.C. 2311.14 and Sup.R. 88 that an interpreter was necessary to assist the Defendant in understanding the proceedings. The **[CERTIFIED/PROVISIONALLY-QUALIFIED/REGISTERED/LANGUAGE-SKILLED]** interpreter **[NAME]** was appointed and sworn on the record.

4 – [VICTIM INQUIRY]

In crimes involving a victim, Courts wishing to include language indicating that the victim has been consulted pursuant to Marsy’s Law should do so here. When implementation language is passed, this Entry will be updated if necessary to reflect the statutory requirements.

() **[VICTIM PRESENT]**

The **[VICTIM(S)/VICTIM REPRESENTATIVE(S)]** was/were present at the hearing and was/were given the opportunity to be heard.

() **[VICTIM NOT PRESENT]**

The **[VICTIM(S)/VICTIM REPRESENTATIVE(S)]** was/were not present at the hearing, and the Court inquired as to whether they had been notified of the hearing and given

5 – [CHARGES IN INDICTMENT/INFORMATION/COMPLAINT]

This section of the entry begins with a six-column chart detailing all charges laid out in the charging instrument:

7. The count number of the offense
8. The statutory offense code - e.g. 2913.02(A)
9. The name of the offense - e.g. Theft
10. The offense level described simply as F# - e.g. F5
11. The maximum penalty for the offense
12. Whether the offense is subject to registration/enrollment duties

6 – [DISMISSALS/AMENDED CHARGES]

This section of the entry begins with a six-column chart detailing all charges laid out in the charging instrument:

1. The count number of the offense
2. Whether the offense is a stipulated lesser included or amended charge
3. Whether the count is being dismissed – indicate n/a in remaining columns if yes
4. The statutory offense code - e.g. 2913.02(A)
5. The name of the offense - e.g. Theft
6. The offense level described simply as F# - e.g. F5
7. The maximum penalty for the offense
8. Whether the offense is subject to registration/enrollment duties



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7 – [FINES]

Columns are provided for fines to be imposed in both the prison imposed and community control charts above. If any fine is imposed, the court must assess the defendant’s present and future ability to pay pursuant to R.C. 2929.19(B)(5) and note that consideration in the entry with the language below. Please note the language below can be further supplemented with payment schedules, apportionment, or other orders within the discretion of the Court. When financial sanctions are imposed as a condition of ILC, list the fine orders in the ILC sanctions order rather than the ILC plea portion.

() **[FINES ORDERED]**

Upon the record before the Court and any evidence presented, and having considered the defendant’s present and future ability to pay, the Court finds that the defendant is able to pay a fine, and imposes a fine as listed above.

In cases with multiple counts and fines imposed and where the Court may wish to waive the fines with regards to some counts and not others, the following chart is provided to supplement the record:

COUNT	MANDATORY FINE Y/N	AMOUNT OF FINE IMPOSED	FINE WAIVED Y/N

Language regarding any affidavit of indigency is included in this section. This language may be re-used or referenced with regard to other financial sanctions. Note the filing of an affidavit in the entry for the record if one is filed.

() **[FINES NOT ORDERED/WAIVED]**

() **[AFFIDAVIT OF INDIGENCY]**

The defendant has filed an affidavit of indigency with the court.

() **[INABILITY TO PAY]**

Upon the record before the Court and any evidence presented, and having considered the defendant’s present and future ability to pay, the Court finds that the defendant is indigent or otherwise is unable to pay and orders that the fine(s) **[ON COUNT #]/[IN THIS CASE]** be waived.

NOTE: Community service may be ordered toward credit for payment of fines in felony cases under 2951.02(B) if the defendant requests the opportunity and the court finds the defendant financially unable to pay the fines. See that section for the requirements if the defendant requests this option and include the language regarding community service from the Costs & Fees instruction above.

8 – [LICENSE SUSPENSION]

Where a license suspension is imposed, note that suspension for the record. This is in addition to a separate BMV form that may be submitted to the court and sent to BCI.

The defendant's DRIVERS LICENSE IS SUSPENDED for a period of **[TERM]** beginning on **[DATE]**. This is a **[CLASS]**



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_____/UNCLASSIFIED] suspension. The Clerk is ordered to report this information to the Bureau of Motor Vehicles.

() [POINTS ON LICENSE]

The defendant will subject to having [NUMBER OF POINTS] assessed against their driver’s license as a result of a conviction for [COUNT NUMBER] [OFFENSE LEVEL AND CODE SECTION]. (repeat per applicable count)

⁹ – [CITIZENSHIP]

This language reflects the colloquy between the Court and the Defendant regarding the potential impact of a criminal conviction on citizenship and immigration rights, and the right pursuant to the U.S. Supreme Court holding in *Padilla v. Kentucky* for the defendant to consult with trial or immigration counsel and be advised about those potential consequences. The provided language indicates the acknowledgement of the defendant on the record that they had consulted with counsel prior regarding immigration and citizenship consequences and their desire to proceed with the plea.

¹⁰ – [SIGNATURES]

Signature lines are provided in the document for defendant to attest to their desire to enter the plea, for defense counsel to attest that they have fulfilled their obligations with regard to the case, and for the judge to sign in accepting the plea after the full Rule 11 colloquy. Best practice is for these signatures to occur in open court to the extent practicable. Signature lines are also provided next to the judge’s signature for the State’s representative and defense counsel to memorialize their agreement as to the plea form.

¹¹ – [UNRULED UPON MOTIONS]

Optional language to resolve any motions still pending at the time of sentencing, for the record. Best practice in case of pleas which are required to be in writing (e.g. a not guilty by reason of insanity plea) is for those withdrawals to also be made in writing.

() [UNRULED UPON MOTIONS]

Any pending motions in this case are hereby disposed of in the following manner
[WITHDRAWN/DISMISSED/DENIED]

¹² – [RESTITUTION]

A victim is entitled to restitution under Art. I §10a(7) of the Ohio Constitution. Courts may order this restitution as part of the sentence in a case. **If restitution is contested by the defendant or victim, the Court must hold a hearing on the matter** pursuant to R.C. 2929.18(A)(1). Once the court has determined the amount of restitution, if any, use the following language to memorialize the order in the entry. Please note the language below can be further supplemented with payment schedules, apportionment, or other orders within the discretion of the Court. When legislative enactment of the provisions of Art. I §10a takes place, this language and instruction will be updated to reflect any changes to the restitution statutes.

The Court must consider the defendant’s present and future ability to pay in making a restitution order pursuant to R.C. 2929.19(B)(5). Courts should check conform to the holdings in their local appellate district as to the scope of that consideration and the necessary record in the entry.

() [RESTITUTION ORDERED]



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[BY STIPULATION OF THE PARTIES / HAVING HELD A RESTITUTION HEARING PURSUANT TO R.C. 2929.18] and having considered the defendant's present and future ability to pay, the defendant is ordered to make restitution in the amount of **[\$[AMOUNT]]** to **[ENTITY]**. **(repeat as necessary) [IF HEARING IS NECESSARY, COURT SHOULD DETAIL EVIDENCE CONSIDERED AND FINDINGS MADE]**

This order of restitution by the Court can be converted to a civil judgement and collected by the victim through a civil action.

[RESTITUTION NOT ORDERED]

Having held a restitution hearing pursuant to R.C. 2929.18 and having considered the defendant's present and future ability to pay, the Court does not order restitution as to Count **[NUMBER]**, due to the following: **[DETAIL EVIDENCE CONSIDERED AND FINDINGS MADE] (repeat as necessary)**

¹³ – **[BOND]**

Courts may need to use their own language for non-standard bond types, such as returning posted property to owner.



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NOT GUILTY BY REASON OF INSANITY ENTRIES INTRODUCTION

The Not Guilty by Reason of Insanity (NGRI) entries lay out the necessary language for a record of the proceedings when an NGRI verdict is returned either by the court or by a jury. As the statute dictates that sentencing after an NGRI verdict requires a separate hearing, template entries are provided both detailing the verdict received and the sentence of the court at the subsequent hearing. Recognizing that there are circumstances in which the State of Ohio and the Defendant may wish to stipulate to expert reports and their findings, a separate entry was created for that jury-waived, stipulated bench trial.

The entries are followed with an instructions section which mirrors similar instructions shared across the entries. As always, template language may be supplemented with any additional information the sentencing judge wishes to include.



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IN THE COMMON PLEAS COURT OF **[NAME]** COUNTY, OHIO

State of Ohio :

Plaintiff :

Case No. CR N

v. :

[NAME] :

**ENTRY UPON
NOT GUILTY BY REASON OF INSANITY VERDICT**

Defendant :

This case came before the court on **[DATE]** for trial and verdicts were returned on **[DATE]**.

[DEFENDANT'S PRESENCE] ¹

[DEFENDANT'S COUNSEL/WAIVER] ²

The State of Ohio, as represented by **[NAME]**, **[WAS PRESENT/APPEARED BY VIDEO]**.

The proceedings were recorded by **[NAME OF REPORTER]/[ELECTRONIC RECORDING SYSTEM]**.

() **[INTERPRETER]** ³

() **[VICTIM]** ⁴

COUNT	STATUTORY OFFENSE CODE	NAME OF OFFENSE	OFFENSE LEVEL	JURY TRIAL/BENCH TRIAL	SPECIFICATIONS (NAME AND CODE SECTION)	FOUND GUILTY Y/N/HUNG/NGRI

The state having met its burden and proven the defendant's guilt beyond a reasonable doubt of the following charges, and that the defendant having proven by a preponderance of the evidence that at the time of committing these offenses, the defendant did not know or understand the wrongfulness of their actions due to a severe mental disease or defect and having been found not guilty by reason of insanity, the Court **[DOES/DOES NOT]** find probable cause to believe that the defendant is a mentally ill person subject to a court order or person with an intellectual disability subject to institutionalization by court order.

() **[FINDING OF PROBABLE CAUSE]**

Having found probably cause to believe that the defendant is a mentally ill person subject to a court order or person with



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an intellectual disability subject to institutionalization by court order, the Court orders the case continued for a full hearing to determine if clear and convincing evidence exists that the person is a mentally ill person subject to court order or a person with an intellectual disability subject to institutionalization by court order.

() **TEMPORARY DETENTION PENDING HEARING**

The Court hereby orders a temporary order of detention for up to ten days pending a further hearing on this matter.

Pursuant to R.C. 2945.40(C) the Court informed the defendant of their right to attend all hearings on this matter, to be represented by counsel and to have counsel provided to them if they are found to be indigent, to have an independent expert evaluation and to have that evaluation provided at public expense if they are found to be indigent, to subpoena witnesses and documents, present evidence and to cross-examine any witnesses brought against them, their right to testify and to not be compelled to testify against themselves, and their limited rights to copies of medical or mental health documents in possession of the State or any place of commitment.

JUDGE

DATE: _____



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IN THE COMMON PLEAS COURT OF [NAME] COUNTY, OHIO

State of Ohio :

Plaintiff :

Case No. CR N

v. :

[NAME] :

**ENTRY UPON
NOT GUILTY BY REASON OF VERDICT
(BENCH TRIAL/STIPULATIONS)**

Defendant :

This case came before the court on [DATE] for trial.

[DEFENDANT'S PRESENCE] ¹

[DEFENDANT'S COUNSEL/WAIVER] ²

The State of Ohio, as represented by [NAME], [WAS PRESENT/APPEARED BY VIDEO].

The proceedings were recorded by [NAME OF REPORTER]/[ELECTRONIC RECORDING SYSTEM].

() [INTERPRETER] ³

() [VICTIM] ⁴

[BENCH TRIAL/STIPULATIONS] ⁵

The defendant having filed, in writing, an assertion of the defense of not guilty by reason of insanity on [DATE], the defendant was referred by this Court for evaluation by [NAME OF EVALUATING EXPERT OR AGENCY]. Their report dated [DATE], has been received and reviewed by this Court and the parties. The case being set for trial, the defendant indicated their desire to waive their right to a jury and the court accepted the written waiver after an inquiry on the record, and proceeded to trial.

() [ADDITIONAL REPORTS/EXPERTS] ⁶

() [STIPULATIONS] ⁷

At the conclusion of evidence and testimony, this Court found that the state met its burden and proven the defendant's guilt beyond a reasonable doubt of the following charges, and that the defendant proved by a preponderance of the evidence that at the time of committing these offenses, the defendant did not know or understand the wrongfulness of their actions due to a severe mental disease or defect as to the following charges:



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COUNT	STATUTORY OFFENSE CODE	NAME OF OFFENSE	OFFENSE LEVEL	JURY TRIAL/BENCH TRIAL	SPECIFICATIONS (NAME AND CODE SECTION)	FOUND GUILTY Y/N/HUNG/NGRI

The Court therefore finds the defendant not guilty by reason of insanity with regard to the counts above, and the Court **[DOES/DOES NOT]** find probable cause to believe that the defendant is a mentally ill person subject to a court order or person with an intellectual disability subject to institutionalization by court order.

[FINDING OF PROBABLE CAUSE]

Having found probable cause to believe that the defendant is a mentally ill person subject to a court order or person with an intellectual disability subject to institutionalization by court order, the Court orders the case continued for a full hearing to determine if clear and convincing evidence exists that the person is a mentally ill person subject to court order or a person with an intellectual disability subject to institutionalization by court order.

[TEMPORARY DETENTION PENDING HEARING]

The Court hereby orders a temporary order of detention for up to ten days pending a further hearing on this matter.

Pursuant to R.C. 2945.40(C) the Court informed the defendant of their right to attend all hearings on this matter, to be represented by counsel and to have counsel provided to them if they are found to be indigent, to have an independent expert evaluation and to have that evaluation provided at public expense if they are found to be indigent, to subpoena witnesses and documents, present evidence and to cross-examine any witnesses brought against them, their right to testify and to not be compelled to testify against themselves, and their limited rights to copies of medical or mental health documents in possession of the State or any place of commitment.

JUDGE: _____

DATE: _____



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IN THE COMMON PLEAS COURT OF **[NAME]** COUNTY, OHIO

State of Ohio :

Plaintiff :

Case No. CR N

v. :

[NAME] :

**NOT GUILTY BY REASON OF INSANITY
SENTENCING ENTRY**

Defendant :

This case came before the court on **[DATE]** for a hearing following a not guilty by reason of insanity verdict returned on **[DATE]**.

[DEFENDANT'S PRESENCE] ¹

[DEFENDANT'S COUNSEL/WAIVER] ²

The State of Ohio, as represented by **[NAME]**, **[WAS PRESENT/APPEARED BY VIDEO]**.

The proceedings were recorded by **[NAME OF REPORTER]/[ELECTRONIC RECORDING SYSTEM]**.

() **[INTERPRETER]** ³

() **[VICTIM]** ⁴

COUNT	STATUTORY OFFENSE CODE	NAME OF OFFENSE	OFFENSE LEVEL	JURY TRIAL/BENCH TRIAL	SPECIFICATIONS (NAME AND CODE SECTION)	FOUND GUILTY Y/N/HUNG/NGRI

Following the not guilty by reason of insanity verdict(s) on the charges above, the Court found probable cause to believe that the defendant is a mentally ill person subject to a court order or person with an intellectual disability subject to institutionalization by court order and **[DID/DID NOT]** order a temporary order of detention pending this hearing.

() **[ADDITIONAL EVALUATIONS AFTER NGRI VERDICT]**

A request for an evaluation having been made on **[DATE]**, the defendant was referred by this Court for evaluation by **[NAME OF EVALUATING EXPERT OR AGENCY]**. Their report dated **[DATE]**, has been received and reviewed by this Court and the parties. **[COURTS MAY DETAIL FINDINGS OF THE REPORT AS TO DETERMINATION, AND LEAST RESTRICTIVE MEANS OF RESTORATION IN REPORT]**



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[ADDITIONAL REPORTS/EXPERTS] ⁶

[STIPULATIONS] ⁷

Having considered all relevant evidence and testimony on the matter pursuant to R.C. 2945.40(D), the Court hereby **[DOES/DOES NOT]** find by clear and convincing evidence that the defendant is a **[MENTALLY ILL PERSON SUBJECT TO A COURT ORDER OR PERSON WITH AN INTELLECTUAL DISABILITY SUBJECT TO INSTITUTIONALIZATION BY COURT ORDER]**.

[NO FINDING]

The Court hereby orders the defendant discharged in this case. Bond in this case is terminated unless a detainer has been placed upon the defendant by the Ohio Department of Rehabilitation and Corrections, in which case they shall be held and returned to the Department of Rehabilitation and Corrections forthwith.

[FINDING OF MENTAL ILLNESS]

The Court therefore orders that the defendant be committed to **[THE CUSTODY OF THE DEPARTMENT OF MENTAL HEALTH AND ADDICTION SERVICES/NAME OF ALTERNATIVE PLACEMENT*]**. In ordering this placement, the Court has considered, giving preference to public safety, the extent to which the person is a danger to the person and to others, the need for security, and the type of crime(s) involved. The Court further finds that this placement is the least restrictive alternative available that is consistent with public safety and the welfare of the defendant.

* **[ODMHAS PLACEMENT RECOMMENDATION]**

Having received a recommendation that the defendant be placed at **[NAME OF PLACEMENT]** from the Department of Mental Health and Addiction Services, the Court hereby approves of that placement.

[FINDING OF INTELLECTUAL DISABILITY]

The Court therefore orders that the defendant be committed to **[THE CUSTODY OF THE DEPARTMENT OF DEVELOPMENTAL DISABILITIES/NAME OF ALTERNATIVE PLACEMENT]**. In ordering this placement, the Court has considered, giving preference to public safety, the extent to which the person is a danger to the person and to others, the need for security, and the type of crime(s) involved. The Court further finds that this placement is the least restrictive alternative available that is consistent with public safety and the welfare of the defendant.

[ORDERS AND CONTINUING JURISDICTION]

In accordance with R.C. 2945.40(G), having ordered the defendant be committed, the Court also orders that the prosecutor provide all reports and relevant information to the place of commitment and that the place of commitment provide reports to the board of alcohol, drug addiction, and mental health services or the community mental health board serving the county in which the charges against the defendant were filed.

The Defendant having been ordered committed as a **[MENTALLY ILL PERSON SUBJECT TO A COURT ORDER OR PERSON WITH AN INTELLECTUAL DISABILITY SUBJECT TO INSTITUTIONALIZATION BY COURT ORDER]** the Court will retain jurisdiction over this case until such a time as this Court finds they are no longer a **[MENTALLY ILL PERSON SUBJECT TO A COURT ORDER OR PERSON WITH AN INTELLECTUAL DISABILITY SUBJECT TO INSTITUTIONALIZATION BY COURT ORDER]** or until the expiration of maximum term of imprisonment the defendant could have received for the most serious offense



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for which they were charged or found not guilty by reason of insanity, to wit: **[LENGTH OF MAXIMUM TERM FOR MOST SERIOUS OFFENSE]**.

JUDGE: _____

DATE: _____



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NGRI ENTRY INSTRUCTIONS

¹ – [DEFENDANT’S PRESENCE]

Note the defendant’s presence or absence for the record.

() **[DEFENDANT PRESENT]**

The defendant was present in the courtroom.

Pursuant to Criminal Rule 43, a defendant may waive their physical presence at a criminal proceeding either orally on the record or in writing, and participate in the proceeding via remote contemporaneous video technology. See Criminal Rule 43(A)(2)(a-e) for specific requirements of the video conferencing technology.

() **[DEFENDANT NOT PRESENT - WAIVER]**

The Court notified the parties in advance of the availability of videoconferencing technology. The defendant waived their right to be physically present at the hearing **[ORALLY/IN WRITING]** pursuant to Crim Rule 43(A)(3) and the proceedings were conducted via remote contemporaneous video technology that allowed for the defendant to see and hear the proceedings, to speak and be heard by the court and the parties, and to communicate with counsel privately.

² – [COUNSEL FOR DEFENDANT/WAIVER]

() **[DEFENDANT HAS COUNSEL]**

Counsel for the defendant, **[NAME]**, **[WAS PRESENT/APPEARED BY VIDEO]**.

() **[PRO SE DEFENDANT]**

Defendants have a sixth amendment right to waive their right to counsel and represent themselves. The request must be unequivocal and the trial court must conduct an inquiry to insure the defendant is aware of the consequence of giving up their right to counsel and of the “dangers and disadvantages of self-representation” – including specific facts and circumstances about the defendant’s situation or charges that affect the decision to waive counsel. The request and waiver inquiry must take place on the record pursuant to Crim R 22, and in “serious offenses” (felonies), that waiver must also be in writing pursuant to Crim R 44.

() **[PRIOR WAIVER]**

At a hearing on **[DATE]**, the defendant requested to waive their right to counsel and represent themselves. The Court conducted an inquiry on the record and found the waiver to be knowingly, intelligently, and voluntarily made, and the waiver was also memorialized in writing at that time.

() **[WAIVER AT HEARING]**

The defendant expressed on the record a request to represent themselves in the proceedings. The Court then conducted an inquiry into the reasons thereof and made the defendant aware of the benefits of having counsel and the dangers and disadvantages of proceeding pro se. After the inquiry, the Court found that the defendant was making a knowing, intelligent, and voluntary waiver of the right to counsel, and allowed the defendant to proceed without representation. This waiver was memorialized in writing after the inquiry on the record.



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3 – [INTERPRETER QUALIFICATION]

Language for use when interpreter is necessary at the plea hearing. For additional information about interpreters, see the [Ohio Supreme Court Interpreter Bench Notes](#).

The Court having previously inquired and found, pursuant to R.C. 2311.14 and Sup.R. 88 that an interpreter was necessary to assist the Defendant in understanding the proceedings. The **[CERTIFIED/PROVISIONALLY-QUALIFIED/REGISTERED/LANGUAGE-SKILLED]** interpreter **[NAME]** was appointed and sworn on the record.

4 – [VICTIM INQUIRY]

In crimes involving a victim, Courts wishing to include language indicating that the victim has been consulted pursuant to Marsy’s Law should do so here. When implementation language is passed, this Entry will be updated if necessary to reflect the statutory requirements.

() **[VICTIM PRESENT]**

The **[VICTIM(S)/VICTIM REPRESENTATIVE(S)]** was/were present at the hearing and was/were given the opportunity to be heard.

() **[VICTIM NOT PRESENT]**

The **[VICTIM(S)/VICTIM REPRESENTATIVE(S)]** was/were not present at the hearing, and the Court inquired as to whether they had been notified of the hearing and given

5 – [BENCH TRIAL/STIPULATIONS]

Language for use in cases where both the state and the defendant are stipulating to the defendant being found Not Guilty by Reason of Insanity. Jury waiver must occur on the record and in writing. Courts may want to supplement provided language with information about procedure of the “trial.”

6 – [ADDITIONAL EVALUATIONS]

Where additional referral for evaluations are made by the parties or the Court, note those additional referrals for the record. If those experts and reports are subject to stipulations, use the stipulation language from instruction 7.

() **[ADDITIONAL EVALUATIONS/REPORTS] (repeat as necessary)**

The defendant was also referred for evaluation by **[NAME OF EVALUATING EXPERT OR AGENCY]** by **[PARTY REQUESTING ADDITIONAL EVALUATION]**. Their report dated **[DATE]**, has been received and reviewed by this Court and the parties. **[COURTS MAY DETAIL FINDINGS OF THE REPORT AS TO COMPETENCY DETERMINATION, RESTORABILITY, AND LEAST RESTRICTIVE MEANS OF RESTORATION IN REPORT]**

7 – [STIPULATIONS]

Repeat stipulation language for as many examiners/reports as necessary.

() **[STIPULATION TO EXAMINER]**

The parties stipulated to **[NAME OF EXAMINER]** as a qualified expert in the field of **[AREA OF EXPERTISE]**.

() **[STIPULATION TO REPORT]**

The parties stipulated as to the admissibility of this report and its findings into evidence, and waived the right of cross-examination of **[NAME OF EXAMINER]** who prepared the report.



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COMPETENCY ENTRIES INTRODUCTION

The following competency have been prepared to provide a uniform template for use statewide in conjunction with the Uniform Sentencing Entry as well as the Uniform Method of Conviction entries, as a competency order is another method by which a case may be terminated. The following entries are currently included:

1. Not Competent, Restorable within statutory timeframe
2. Not Competent, Additional time needed to determine if restorable
3. Not Competent, Not Restorable – Court retains jurisdiction
4. Not Competent, Not Restorable – Civil commitment filed
5. Not Competent, Not Restorable – Charges dismissed

All entries reference this common instruction section for ease of use. As the evaluators, placements, and treatment facilities vary throughout jurisdictions, Courts should supplement the template language as necessary to reflect practice in their jurisdictions.

A “competent to stand trial” entry is not included, as the termination in that case will be memorialized in another entry (sentencing or otherwise). Look for additional entries on competency proceedings to accompany a forthcoming quick reference guide on competency restoration created by the Criminal Sentencing Commission.



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IN THE COMMON PLEAS COURT OF **[NAME]** COUNTY, OHIO

State of Ohio :

Plaintiff :

Case No. CR N

v. :

[NAME] :

**COMPETENCY TO STAND TRIAL ENTRY
NOT COMPETENT – RESTORABLE**

Defendant :

CHARGES IN **[INDICTMENT/INFORMATION/COMPLAINT]**¹

COUNT #	STATUTORY OFFENSE CODE	NAME OF OFFENSE	OFFENSE LEVEL	MANDATORY Y/N	SPECIFICATIONS (NAME AND CODE SECTION)

This case came before the Court on **[DATE]** for a competency hearing.

[DEFENDANT'S PRESENCE] ²

[DEFENDANT'S COUNSEL/WAIVER] ³

The State of Ohio, as represented by **[NAME]**, **[WAS PRESENT/APPEARED BY VIDEO]**.

The proceedings were recorded by **[NAME OF REPORTER]/[ELECTRONIC RECORDING SYSTEM]**.

() **[INTERPRETER]** ⁴

() **[VICTIM]** ⁵

A request for a competency evaluation having been made on **[DATE]**, the defendant was referred by this Court for evaluation by **[NAME OF EVALUATING EXPERT OR AGENCY]**. Their report dated **[DATE]**, has been received and reviewed by this Court and the parties. **[COURTS MAY DETAIL FINDINGS OF THE REPORT AS TO COMPETENCY DETERMINATION, RESTORABILITY, AND LEAST RESTRICTIVE MEANS OF RESTORATION IN REPORT]**

() **[ADDITIONAL REPORTS/EXPERTS]** ⁶

() **[INTELLECTUAL DISABILITY]** ⁷

() **[STIPULATIONS]** ⁸



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[WAIVER OF HEARING]⁹

[HEARING ON RECORD]¹⁰

[FINDINGS]

[COURTS MAY DETAIL ANY EVIDENCE OR TESTIMONY CONSIDERED IN MAKING COMPETENCY DETERMINATION]

Based upon consideration of all relevant reports, information and other evidence, the Court finds by a preponderance of the evidence that due to a present medical condition the defendant is incompetent to stand trial, but that a substantial probability exists that they can be restored to competency within the statutory time frame if provided with treatment. The Court further finds that the least restrictive means of restoration, consistent with the defendant's treatment needs and the safety of the community is [LEAST RESTRICTIVE MEANS FINDING]. Therefore, the Court orders that the defendant undergo treatment at [TREATMENT FACILITY/PROGRAM] for a period of up to [STATUTORY TIME FRAME] under the supervision of [SUPERVISING AUTHORITY]. [NAME OF EVALUATOR/TREATMENT PROGRAM] is ordered to provide this Court with a report on the defendant's competency once a determination is able to be made, after each six months of treatment, and/or fourteen days before the expiration of the maximum time for treatment.

[ORDER TO COOPERATE WITH TREATMENT]¹¹

[FREEDOM OF MOVEMENT RESTRICTIONS]¹²

[REMAND/CONVEY]¹³

JUDGE: _____

DATE: _____

cc: Prosecutor
Defense Counsel [NAME]
Probation _____
Sheriff _____
SERVED BY Deputy Clerk _____
On the _____ day of _____, _____



OHIO

CRIMINAL SENTENCING COMMISSION

65 SOUTH FRONT STREET • 5TH FLOOR • COLUMBUS, OHIO 43215-3431 • TELEPHONE: 614.387.9305 • FAX: 614.387.9309

IN THE COMMON PLEAS COURT OF **[NAME]** COUNTY, OHIO

State of Ohio :

Plaintiff :

Case No. CR N

v. :

[NAME] :

**COMPETENCY TO STAND TRIAL ENTRY
NOT COMPETENT – ADDITIONAL TIME NEEDED**

Defendant :

CHARGES IN **[INDICTMENT/INFORMATION/COMPLAINT]** ¹

COUNT #	STATUTORY OFFENSE CODE	NAME OF OFFENSE	OFFENSE LEVEL	MANDATORY Y/N	SPECIFICATIONS (NAME AND CODE SECTION)

This case came before the Court on **[DATE]** for a competency hearing.

[DEFENDANT'S PRESENCE] ²

[DEFENDANT'S COUNSEL/WAIVER] ³

The State of Ohio, as represented by **[NAME]**, **[WAS PRESENT/APPEARED BY VIDEO]**.

The proceedings were recorded by **[NAME OF REPORTER]/[ELECTRONIC RECORDING SYSTEM]**.

() **[INTERPRETER]** ⁴

() **[VICTIM]** ⁵

A request for a competency evaluation having been made on **[DATE]**, the defendant was referred by this Court for evaluation by **[NAME OF EVALUATING EXPERT OR AGENCY]**. Their report dated **[DATE]**, has been received and reviewed by this Court and the parties. **[COURTS MAY DETAIL FINDINGS OF THE REPORT AS TO COMPETENCY DETERMINATION, RESTORABILITY, AND LEAST RESTRICTIVE MEANS OF RESTORATION IN REPORT]**

() **[ADDITIONAL REPORTS/EXPERTS]** ⁶

() **[INTELLECTUAL DISABILITY]** ⁷

() **[STIPULATIONS]** ⁸



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[WAIVER OF HEARING]⁹

[HEARING ON RECORD]¹⁰

[FINDINGS]

[COURTS MAY DETAIL ANY EVIDENCE OR TESTIMONY CONSIDERED IN MAKING COMPETENCY DETERMINATION]

Based upon consideration of all relevant reports, information and other evidence, the Court finds by a preponderance of the evidence that due to a present medical condition the defendant is incompetent to stand trial, but that additional time is need to determine if they can be restored to competency within the statutory time frame if provided with treatment. The Court therefore orders that the defendant undergo continued evaluation and treatment of up to 4 months at [TREATMENT FACILITY OR PROGRAM] pursuant to RC 2945.38(B)(1)(a) to determine whether there is a substantial possibility that the defendant will become competent within the statutory timeframe if provided with a course of treatment. [NAME OF EVALUATOR/TREATMENT PROGAM] is ordered to provide this Court with a report on the defendant's competency once a determination is able to be made or 14 days before the expiration of the additional evaluation period or the maximum time for treatment.

[ORDER TO COOPERATE WITH TREATMENT]¹¹

[FREEDOM OF MOVEMENT RESTRICTIONS]¹²

[REMAND/CONVEY]¹³

JUDGE: _____

DATE: _____

cc: Prosecutor
Defense Counsel [NAME]
Probation _____
Sheriff _____
SERVED BY Deputy Clerk _____
On the _____ day of _____, _____



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IN THE COMMON PLEAS COURT OF **[NAME]** COUNTY, OHIO

State of Ohio

:

Plaintiff

:

Case No. CR N

v.

:

[NAME]

:

**COMPETENCY TO STAND TRIAL ENTRY
NOT COMPETENT – NOT RESTORABLE
COURT RETAINS JURISDICTION**

Defendant

:

CHARGES IN **[INDICTMENT/INFORMATION/COMPLAINT]**¹

COUNT #	STATUTORY OFFENSE CODE	NAME OF OFFENSE	OFFENSE LEVEL	MANDATORY Y/N	SPECIFICATIONS (NAME AND CODE SECTION)

This case came before the Court on **[DATE]** for a competency hearing.

[DEFENDANT'S PRESENCE]²

[DEFENDANT'S COUNSEL/WAIVER]³

The State of Ohio, as represented by **[NAME]**, **[WAS PRESENT/APPEARED BY VIDEO]**.

The proceedings were recorded by **[NAME OF REPORTER]/[ELECTRONIC RECORDING SYSTEM]**.

() **[INTERPRETER]**⁴

() **[VICTIM]**⁵

A request for a competency evaluation having been made on **[DATE]**, the defendant was referred by this Court for evaluation by **[NAME OF EVALUATING EXPERT OR AGENCY]**. Their report dated **[DATE]**, has been received and reviewed by this Court and the parties. **[COURTS MAY DETAIL FINDINGS OF THE REPORT AS TO COMPETENCY DETERMINATION, RESTORABILITY, AND LEAST RESTRICTIVE MEANS OF RESTORATION IN REPORT]**

() **[ADDITIONAL REPORTS/EXPERTS]**⁶

() **[INTELLECTUAL DISABILITY]**⁷

() **[STIPULATIONS]**⁸



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[WAIVER OF HEARING]⁹

[HEARING ON RECORD]¹⁰

[FINDINGS]

[COURTS MAY DETAIL ANY EVIDENCE OR TESTIMONY CONSIDERED IN MAKING COMPETENCY DETERMINATION]

Based upon consideration of all relevant reports, information, and other evidence, the Court finds by a preponderance of the evidence that due to a present medical condition the defendant is incompetent to stand trial, and that a substantial probability does not exist that they can be restored to competency within the statutory time frame.

The defendant having been charged with one of the crimes listed in RC 2945.38(C)(1), [THE COURT / THE STATE OF OHIO] has made a motion for the trial court to retain jurisdiction over the defendant pursuant to RC 2945.38(B)(2) and RC 2945.39(A)(2). The Court conducted a hearing on that motion on [DATE], and having considered all relevant evidence and information including [LIST RC 2943.39(B) ITEMS CONSIDERED] hereby:

[COURT RETAINS JURISDICTION]

DOES FIND by clear and convincing evidence that the defendant committed the offense of with they were charged and that they are [A MENTALLY ILL PERSON SUBJECT TO COURT ORDER / A PERSON WITH AN INTELLECTUAL DISABILITY SUBJECT TO INSTITUTIONALIZATION BY COURT ORDER] and orders that the defendant undergo treatment at [TREATMENT FACILITY/PROVIDER] for a period of up to [STATUTORY TIME FRAME] under the supervision of [SUPERVISING AUTHORITY]. The Court, having considered the extent to which the defendant is a danger to themselves or others, the need for security, and the type of crime involved, finds that this is the least restrictive treatment alternative available that is consistent with both public safety and the welfare of the defendant, with preference given to protecting public safety.

The defendant will remain under this Court’s jurisdiction until the expiration of the maximum sentence they could receive if convicted of the highest-level offense charged, in this case [TERM], until another competency hearing is requested and the defendant is found to be competent to stand trial, or until the court finds the defendant to be no longer subject to institutionalization by Court order. [TREATMENT FACILITY/PROVIDER] will report back to the trial court after the initial six months of treatment and then every two years after the initial report is made, or at such a time as the facility recommends termination of the defendant or a non-secured status for the first time.

[COURT DOES NOT RETAIN JURISDICTION]

DOES NOT FIND by clear and convincing evidence that the defendant committed the offense of which they were charged or that they are a mentally ill person subject to court order or a person with an intellectual disability subject to institutionalization by court order.

[DISMISSAL AND DISCHARGE]

The Court therefore orders the [INDICTMENT/INFORMATION/COMPLAINT] dismissed and the defendant discharged.

[DISMISSAL AND CIVIL COMMITMENT AFFADAVIT]



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The Court therefore orders the **[INDICTMENT/INFORMATION/COMPLAINT]** dismissed. The prosecutor having filed an affidavit with the **[COUNTY NAME]** Probate Court requesting the civil commitment of the defendant pursuant to

() **[RC 5122]** as a mentally ill person subject to hospitalization or treatment by court order.

() **[RC 5123]** as a person with an intellectual disability subject to institutionalization by court order.

() **[DETAINER]**

The Court further orders the defendant be detained pending civil commitment for up to ten days pursuant to RC 2945.39(A)(1).

() **[TEMPORARY ORDER OF DETENTION]**

The Court further makes a temporary order of detention pursuant to **[RC 5122.11 / RC 5123.71]** to remain in effect until the probable cause hearing or initial hearing in probate court.

() **[ORDER TO COOPERATE WITH TREATMENT]** ¹¹

() **[FREEDOM OF MOVEMENT RESTRICTIONS]** ¹²

() **[REMAND/CONVEY]** ¹³

JUDGE: _____

DATE: _____

cc: Prosecutor
Defense Counsel **[NAME]**
Probation _____
Sheriff _____
SERVED BY Deputy Clerk _____
On the _____ day of _____, _____



OHIO

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IN THE COMMON PLEAS COURT OF **[NAME]** COUNTY, OHIO

State of Ohio :

Plaintiff :

Case No. CR N

v. :

[NAME] :

**COMPETENCY TO STAND TRIAL ENTRY
NOT COMPETENT – NOT RESTORABLE
CIVIL COMMITMENT REQUESTED**

Defendant :

CHARGES IN **[INDICTMENT/INFORMATION/COMPLAINT]**¹

COUNT #	STATUTORY OFFENSE CODE	NAME OF OFFENSE	OFFENSE LEVEL	MANDATORY Y/N	SPECIFICATIONS (NAME AND CODE SECTION)

This case came before the Court on **[DATE]** for a competency hearing.

[DEFENDANT'S PRESENCE]²

[DEFENDANT'S COUNSEL/WAIVER]³

The State of Ohio, as represented by **[NAME]**, **[WAS PRESENT/APPEARED BY VIDEO]**.

The proceedings were recorded by **[NAME OF REPORTER]/[ELECTRONIC RECORDING SYSTEM]**.

() **[INTERPRETER]**⁴

() **[VICTIM]**⁵

A request for a competency evaluation having been made on **[DATE]**, the defendant was referred by this Court for evaluation by **[NAME OF EVALUATING EXPERT OR AGENCY]**. Their report dated **[DATE]**, has been received and reviewed by this Court and the parties. **[COURTS MAY DETAIL FINDINGS OF THE REPORT AS TO COMPETENCY DETERMINATION, RESTORABILITY, AND LEAST RESTRICTIVE MEANS OF RESTORATION IN REPORT]**

() **[ADDITIONAL REPORTS/EXPERTS]**⁶

() **[INTELLECTUAL DISABILITY]**⁷

() **[STIPULATIONS]**⁸



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[WAIVER OF HEARING]⁹

[HEARING ON RECORD]¹⁰

[FINDINGS]

[COURTS MAY DETAIL ANY EVIDENCE OR TESTIMONY CONSIDERED IN MAKING COMPETENCY DETERMINATION]

Based upon consideration of all relevant reports, information, and other evidence, the Court finds by a preponderance of the evidence that due to a present medical condition the defendant is incompetent to stand trial, and that a substantial probability does not exist that they can be restored to competency within the statutory time frame. [THE COURT / THE STATE OF OHIO] has filed an affidavit with the [COUNTY NAME] Probate Court requesting the civil commitment of the defendant pursuant to

[RC 5122] as a mentally ill person subject to hospitalization or treatment by court order.

[RC 5123] as a person with an intellectual disability subject to institutionalization by court order.

[DETAINER]

The Court further orders the defendant be detained pending civil commitment for up to ten days pursuant to RC 2945.39(A)(1).

[TEMPORARY ORDER OF DETENTION]

The Court further makes a temporary order of detention pursuant to [RC 5122.11 / RC 5123.71] to remain in effect until the probable cause hearing or initial hearing in probate court.

[ORDER TO COOPERATE WITH TREATMENT]¹¹

[FREEDOM OF MOVEMENT RESTRICTIONS]¹²

[REMAND/CONVEY]¹³

JUDGE: _____

DATE: _____

cc: Prosecutor
Defense Counsel [NAME]
Probation _____

Sheriff
SERVED BY Deputy Clerk _____

On the _____ day of _____, _____



OHIO

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IN THE COMMON PLEAS COURT OF **[NAME]** COUNTY, OHIO

State of Ohio

:

Plaintiff

:

Case No. CR N

v.

:

[NAME]

:

**COMPETENCY TO STAND TRIAL ENTRY
NOT COMPETENT – NOT RESTORABLE
CHARGES DISMISSED**

Defendant

:

CHARGES IN **[INDICTMENT/INFORMATION/COMPLAINT]**¹

COUNT #	STATUTORY OFFENSE CODE	NAME OF OFFENSE	OFFENSE LEVEL	MANDATORY Y/N	SPECIFICATIONS (NAME AND CODE SECTION)

This case came before the Court on **[DATE]** for a competency hearing.

[DEFENDANT'S PRESENCE]²

[DEFENDANT'S COUNSEL/WAIVER]³

The State of Ohio, as represented by **[NAME]**, **[WAS PRESENT/APPEARED BY VIDEO]**.

The proceedings were recorded by **[NAME OF REPORTER]/[ELECTRONIC RECORDING SYSTEM]**.

() **[INTERPRETER]**⁴

() **[VICTIM]**⁵

A request for a competency evaluation having been made on **[DATE]**, the defendant was referred by this Court for evaluation by **[NAME OF EVALUATING EXPERT OR AGENCY]**. Their report dated **[DATE]**, has been received and reviewed by this Court and the parties. **[COURTS MAY DETAIL FINDINGS OF THE REPORT AS TO COMPETENCY DETERMINATION, RESTORABILITY, AND LEAST RESTRICTIVE MEANS OF RESTORATION IN REPORT]**

() **[ADDITIONAL REPORTS/EXPERTS]**⁶

() **[INTELLECTUAL DISABILITY]**⁷

() **[STIPULATIONS]**⁸



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() [WAIVER OF HEARING]⁹

() [HEARING ON RECORD]¹⁰

[FINDINGS]

[COURTS MAY DETAIL ANY EVIDENCE OR TESTIMONY CONSIDERED IN MAKING COMPETENCY DETERMINATION]

Based upon consideration of all relevant reports, information and other evidence, the Court finds by a preponderance of the evidence that due to a present medical condition the defendant is incompetent to stand trial, and that a substantial probability does not exist that they can be restored to competency within the statutory time frame. The Court further finds that the defendant is not charged with one of the offenses listed in RC 2945.38(C)(1) and that no affidavit for civil commitment of the defendant has been filed in the probate court. The Court therefore orders the [INDICTMENT/INFORMATION/COMPLAINT] in this case dismissed and the defendant discharged.

JUDGE: _____

DATE: _____

cc: Prosecutor
Defense Counsel [NAME]
Probation _____
Sheriff
SERVED BY Deputy Clerk _____
On the _____ day of _____, _____



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COMPETENCY ENTRY INSTRUCTIONS

NOTE: A “competent to stand trial” entry is not included, as the termination in that case will be memorialized in another entry (sentencing or otherwise). Look for additional entries on competency proceedings to accompany a forthcoming quick reference guide on competency restoration created by the Criminal Sentencing Commission.

¹ – [CHARGES IN INDICTMENT/INFORMATION/COMPLAINT]

This section of the entry begins with a six-column chart detailing all charges laid out in the charging instrument:

- 8. The count number of the offense
- 9. The statutory offense code - e.g. 2913.02(A)
- 10. The name of the offense - e.g. Theft
- 11. The offense level described simply as F# - e.g. F5
- 12. Whether the offense carries a mandatory prison term
- 13. Any specifications attached to the count by specification number, name, and code section 1- 3yr Firearm 2941.145

² – [DEFENDANT’S PRESENCE]

Note the defendant’s presence or absence for the record.

[DEFENDANT PRESENT]

The defendant was present in the courtroom.

Pursuant to Criminal Rule 43, a defendant may waive their physical presence at a criminal proceeding either orally on the record or in writing, and participate in the proceeding via remote contemporaneous video technology. See Criminal Rule 43(A)(2)(a-e) for specific requirements of the video conferencing technology.

[DEFENDANT NOT PRESENT - WAIVER]

The Court notified the parties in advance of the availability of videoconferencing technology. The defendant waived their right to be physically present at the hearing **[ORALLY/IN WRITING]** pursuant to Crim Rule 43(A)(3) and the proceedings were conducted via remote contemporaneous video technology that allowed for the defendant to see and hear the proceedings, to speak and be heard by the court and the parties, and to communicate with counsel privately.

A defendant may also be excluded from a proceeding due to disruptive behavior pursuant to Criminal Rule 43(B). Courts should note that disruptive behavior for the record, as well as any accommodations (such as use of contemporaneous video technology) made to preserve the rights of the defendant.

[DEFENDANT NOT PRESENT – DISRUPTIVE BEHAVIOR]

[DETAIL DEFENDANT’S DISRUPTIVE BEHAVIOR] Due to the persistent disruptive conduct of the offender, the Court found pursuant to Criminal Rule 43(B) that the proceedings could not reasonably be conducted with the defendant present in the courtroom, and therefore ordered that the defendant be removed. The Court then proceeded with the hearing. **[NOTE ANY STEPS TAKEN TO PRESERVE RIGHTS OF DEFENDANT]**



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3 – [COUNSEL FOR DEFENDANT/WAIVER]

Note the presence or absence of defense counsel at the proceedings for the record. When the issue of competency is raised, the defendant must be represented by counsel pursuant to RC 2945.37(D).

() [DEFENDANT HAS COUNSEL]

Counsel for the defendant, [NAME], [WAS PRESENT/APPEARED BY VIDEO].

4 – [INTERPRETER QUALIFICATION]

Language for use when interpreter is necessary at the plea hearing. For additional information about interpreters, see the [Ohio Supreme Court Interpreter Bench Notes](#).

() [INTERPRETER]

The Court having previously inquired and found, pursuant to R.C. 2311.14 and Sup.R. 88 that an interpreter was necessary to assist the Defendant in understanding the proceedings. The [CERTIFIED/PROVISIONALLY-QUALIFIED/REGISTERED/LANGUAGE-SKILLED] interpreter [NAME] was appointed and sworn on the record.

5 – [VICTIM INQUIRY]

In crimes involving a victim, Courts wishing to include language indicating that the victim has been consulted pursuant to Marsy’s Law should do so here. When implementation language is passed, this Entry will be updated if necessary to reflect the statutory requirements.

() [VICTIM PRESENT]

The [VICTIM(S)/VICTIM REPRESENTATIVE(S)] was/were present at the hearing and was/were given the opportunity to be heard.

() [VICTIM NOT PRESENT]

The [VICTIM(S)/VICTIM REPRESENTATIVE(S)] was/were not present at the hearing, and the Court inquired as to whether they had been notified of the hearing and given

6 – [ADDITIONAL EVALUATIONS]

Where additional referral for evaluations are made by the parties or the Court, note those additional referrals for the record. If those experts and reports are subject to stipulations, use the stipulation language from instruction 8.

() [ADDITIONAL EVALUATIONS/REPORTS] (repeat as necessary)

The defendant was also referred for evaluation by [NAME OF EVALUATING EXPERT OR AGENCY] by [PARTY REQUESTING ADDITIONAL EVALUATION]. Their report dated [DATE], has been received and reviewed by this Court and the parties. [COURTS MAY DETAIL FINDINGS OF THE REPORT AS TO COMPETENCY DETERMINATION, RESTORABILITY, AND LEAST RESTRICTIVE MEANS OF RESTORATION IN REPORT]

7 – [INTELLECTUAL DISABILITY]

Where the competency examiner has recommended a further evaluation to determine if the defendant is suffering from an intellectual disability subject to institutionalization by court order, pursuant to 2945.371(H), use the following language.

() [INTELLECTUAL DISABILITY]

Pursuant to the of [NAME OF EXAMINER] that the defendant appears to be a person with an intellectual disability

subject to court order, the defendant was also referred for evaluation by **[NAME OF EVALUATING EXPERT OR AGENCY]** in accordance with RC 2945.371(H). That intellectual disability report dated **[DATE]**, has been received and reviewed by this Court and the parties. **[COURTS MAY DETAIL FINDINGS OF THE REPORT]**

8 – [STIPULATIONS]

Repeat stipulation language for as many examiners/reports as necessary.

() **[STIPULATION TO EXAMINER]**

The parties stipulated to **[NAME OF EXAMINER]** as a qualified expert in the field of **[AREA OF EXPERTISE]**.

() **[STIPULATION TO REPORT]**

The parties stipulated as to the admissibility of this report and its findings into evidence, and waived the right of cross-examination of **[NAME OF EXAMINER]** who prepared the report.

9 – [SCOPE OF HEARING]

Parties may waive a formal hearing on the record and stipulated to the evidence the court will consider.

See, e.g. *State v. Lewis*, 2017-Ohio-461, paragraph 29 (Court of Appeals of Ohio, 8th District, 2017)

Courts are guided as to the requirements of the hearing by R.C. 2945.40(C) and (D) as to the rights of the defendant and the requirements of the hearing.

() **[WAIVER OF HEARING]**

The parties waived formal hearing on the record.

10 – [HEARING ON RECORD]

Pursuant 2945.37(B) a competency hearing is required when the issue of competency is raised before trial, unless waived by the parties as above. When the issue of competency is raised after a trial has begun, the court shall hold a competency hearing for good cause shown or on the court's own motion. Courts are guided as to the requirements of the hearing by R.C. 2945.40(C) and (D) as to the rights of the defendant and the requirements of the hearing.

() **[HEARING ON RECORD]**

A hearing was held on the record pursuant to RC 2945.37(B)

11 – [ORDER TO COOPERATE WITH TREATMENT]

Language for defendant's requiring medication as part of course of treatment.

() **[ORDER TO COOPERATE WITH TREATMENT]**

While at **[TREATMENT FACILITY]** the defendant is hereby ordered to cooperate with all prescribed medications. In the event the defendant refuses to cooperate with the administration of prescribed medications, **[TREATMENT FACILITY]** shall petition the court pursuant to 2945.38(B)(1)(c) to schedule a forced medications hearing.

12 – [FREEDOM OF MOVEMENT RESTRICTIONS]

When ordering a defendant to undergo treatment or continuing evaluation, the Court may also make any orders restricting the defendant's movement it feels necessary. The levels of supervision/freedom of movement categories can vary by jurisdiction.



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[FREEDOM OF MOVEMENT RESTRICTIONS]

The Court further orders that defendant is **[JURISDICTIONAL/FACILITY APPROPRIATE LANGUAGE]**

¹³ – **[REMAND/CONVEY/REPORT]**

Language for courts who do not prepare a separate conveyance entry or order to report for outpatient restoration programs.

[DEFENDANT TO REMAIN IN CUSTODY]

The defendant is remanded to the custody of **[ENTITY]** to await transport to **[TREATMENT FACILITY]**.

[REPORT FOR OUTPATIENT RESTORATION]

The defendant is hereby ordered to report to **[ENTITY]** for enrollment in **[TREATMENT PROGRAM]** no later than **[DATE]**.



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“GOOD CIVICS” FORMS

The Ad Hoc Committee has also endorsed the creation of a repository of what were termed “good civics” form templates. While not directly related to disposition of the case, these entries address issues either required by statute or represent what was viewed by the Committee as being memorialized in writing as a best practice.

What follows is one example of a “good civics” document – a template form memorializing the acknowledgement of a defendant’s post-release control obligations when a prison sentence is being imposed. This form documents that the defendant was properly notified of their post release control obligation at the time of sentencing, is signed by defense counsel, the defendant, and the judge, and can be filed alongside the sentencing entry.

While the recent decision in *State v. Harper*, Slip Opinion No. 2020-Ohio-2913, revised the court’s void-versus-voidable jurisprudence and held that errors in imposing post-release control are only subject to challenge on direct appeal rather than at any time, avoiding errors entirely is preferable. This “good civics” form/entry, accompanied with a thorough on the record explanation, serves to further that goal.

As work on the uniform entries progresses, we will collect and continue to develop additional “good civics” forms and entries for use statewide, including but not limited to the following examples:

1. Waiver of Counsel Form
2. Waiver of Right to Trial by Jury
3. Uniform Bill of Information
4. Community Control Sanctions Imposed Form
5. Notification of Non-Life Felony Indefinite Sentencing required advisements (SB 201 Sentences)



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IN THE COMMON PLEAS COURT OF **[NAME]** COUNTY, OHIO

State of Ohio :

Plaintiff :

v. :

[NAME] :

Defendant :

Case No. CR N

POST-RELEASE CONTROL FORM PRISON IMPOSED

The Court hereby notifies the defendant that their convictions in this case are subject to the following post release control obligations:

OFFENSE LEVEL	POST-RELEASE CONTROL PERIOD	OFFENSE LEVEL	POST RELEASE CONTROL PERIOD
<input type="checkbox"/> F1	Five Years – Mandatory	<input type="checkbox"/> F3	Up to Three Years – Optional
<input type="checkbox"/> Felony Sex Offense	Five Years – Mandatory	<input type="checkbox"/> F4	Up to Three Years – Optional
<input type="checkbox"/> F2	Three Years – Mandatory	<input type="checkbox"/> F5	Up to Three Years – Optional
<input type="checkbox"/> F3 Offense of Violence	Three Years – Mandatory	<input type="checkbox"/> OTHER	_____

The Court explained, and the defendant acknowledged the applicable post-release control obligations on each count as listed in the chart above, and that in the case of multiple offenses, only the longest single term of post-release control will be imposed for the case, pursuant to R.C. 2967.28(F)(4)(c). As a result of the conviction(s) in this case and the imposition of a prison sentence, and pursuant to 2967.28(F)(4)(c), the defendant **[WILL/MAY]** be subject to a period of post-release control of **[UP TO THREE/THREE/FIVE]** years. The Adult Parole Authority will administer the post-release control pursuant to R.C. 2967.28, and the defendant has been advised that any violation of a post-release control condition could result in more restrictive non-prison sanctions, a longer period of supervision or control up to a specified maximum, and/or reimprisonment for up to nine months at a time. The prison term(s) for all post-release control violations may not exceed one-half of the stated prison term originally imposed.

If any violation of post-release control constitutes a felony, the defendant may be prosecuted, convicted and sentenced on that new felony. The court in that new felony case may terminate the term of post-release control in this case and either: (1) in addition to any prison term imposed for the new felony, impose a consecutive prison term for the post-release control violation of either 12 months or the amount of time left on post-release control, whichever is greater, or (2) impose community control sanctions for the post-release control violation to be served concurrently or consecutively to any community control sanctions imposed for the new felony.

I, the defendant, hereby certify that the Court read this notice to me and provided me a copy in writing.

Defendant



CRIMINAL SENTENCING COMMISSION

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As Counsel for the defendant, I certify that the Court read this notice to the defendant and provided it to them in writing.

Attorney for Defendant

JUDGE: _____

DATE: _____



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PATH FORWARD

The desire for sentencing data is not new. Most recently, that has been made clear by the still unrealized recommendations from the Ohio Commission on Racial Fairness Report (Appendix L). It is safe to say that for the last three decades, reports, recommendations and documented efforts from task forces, blue ribbon panels and committees all have endorsed, pleaded and cajoled for sentencing data and information to no avail. In fact, the Commission alone has repeatedly advocated for a standard, statewide method of data collection, at the individual level, including demographic information that can be aggregated (Appendix N, O, P).

The development of the Uniform Sentencing Entry and the companion Method of Conviction Entries provide the foundation to create a timely, accurate, comprehensive sentencing database to help inform decision-making and give judges the tools and information needed to do their job in accordance with the purposes and principles of felony sentencing. We are positioned to create such a sentencing database – which can and will enhance public confidence and trust in the system by making information available, accessible and reportable. The data can also be used by policy makers to make sensible cost-effective decisions and promote smart, effective use of resources and ensure measured, proportional responses. We believe we can do this in a way that is efficient, reduces duplication and does not fiscally or administratively burden local government.

Notwithstanding the aforementioned, one may still ask...**Why do we need sentencing data?**

The data collected from the uniform sentencing entry can be used to answer a number of questions that are currently unable to be answered and that will inform fair, fiscally responsible criminal justice policy. The list below is an example of just some of the issues that can be addressed from this information, based on the existing draft of the entry and organized generally by larger topic (e.g. convictions, sentences, etc.).

Policy Evaluation

- Fiscal impacts of policy changes
- Evaluating current criminal justice policy based on the overall goals of such policies
- Cost (fiscal & social) of potential crime prevented through incarceration and the cost of incarceration

Convictions

- Obtained by plea vs. trial (in custody vs. out, jury trial or bench trial)
- Number of felony convictions in Ohio in any given time period
- The percent of total convictions in Ohio by offense
- Trends of offense convictions overtime

Sentences

- Sentence length for pleas vs. trials for specific types of offenses
- An analysis of sentences for offenses that may be reclassified with the passage of legislation
- Average sentence length by offense overtime with and without specifications (by type)



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- Sentences by offense and various demographic groups (race, gender, etc.)
- Trends of consecutive vs. concurrent sentencing
- Comparison of sentencing by offense across various regions of the state

Incarceration

- Percent of offenders on community supervision vs. incarcerated
- Average incarceration sentence per offense over time
- Comparison of non-violent and violent offense sentencing
- Impact of sentencing enhancements on incarceration length
- Number of people admitted to or released from prison each year

Financial Sanctions

- Fines by offense
- How many offenders are receiving fines in addition to incarceration and/or CCS

Recidivism

- Recidivism rates within a given time period
- Comparison of recidivism by offenses of those that have prison sentence vs. community supervision
- Comparison by offenses with different periods of post release supervision
- Among those with gun specifications

Thus, the development of a sentencing database gives us the power to compile and organize the mountains of information that is collected in unconnected files and systems. It presents our best chance to reflect the reality consuming courtrooms across the state and effectively transform eye-popping details into informed judicial and public policy decisions. We can craft narratives that don't confuse the dramatic with the important or focus only on the one attention-grabbing moment and not on the larger, slower, and perhaps more subtle narrative. A sentencing database can and will enhance public confidence and trust in the system by making information accessible, consumable and reportable.

Further, the Ohio Commission on Racial Fairness Report recommended that:

The Supreme Court should engage a person or entity with the necessary skill and experience to design meaningful methodologies for the collection and compilation of relevant data as to race at all relevant stages of the criminal justice system, and to monitor the collection and compilation of the data. (p. 55)

This amplifies the effort to modernize the Commission's statutory authority and transition to the Ohio Criminal Justice Commission. The modernization of the enabling statutes of the Commission includes both changes in membership and duties. The changes in membership reduce and strengthen the members from 31 to 29, and removes the provision for the Advisory Committee. The re-organized membership of the Commission represents a diverse and inclusive group of experts who can be responsive to the distinct needs of their jurisdictions while pursuing a level of fairness and rationality that can be particularly elusive in the legislative heat of the moment.

The changes in duties for the Commission are robust and support the indispensable role of sentencing commissions to assemble and analyze all the data about the inflows and outflows of the criminal justice system needed to make sensible cost-benefit decisions and promote smart, effective use of resources and ensure measured, proportional responses. The duties of the modernized Commission include:

- Designation as a Criminal justice agency which authorizes access to databases administered by state and local agencies or jurisdictions for the purposes of the administration of criminal justice.
- Facilitation of the development and maintenance of a statewide criminal sentencing database.
- Making recommendations for coordination of policies in the state's criminal justice system for the three branches of state government, based on information from practitioners and other experts through ongoing discussions, research, and review of existing practices and procedures, and which shall include cost-benefit analyses of the practices and procedures.
- Conducting sentencing trends analyses and studies.
- Evaluating the impact of pretrial, sentencing diversion, incarceration, and post-release supervision programs;
- Acting as a clearinghouse on significant criminal justice proposals and performing fiscal impact analyses on proposed criminal justice legislation as determined by the Commission or as requested by the general assembly or the governor.
- Acting as a sentencing policy resource for the state.
- Recommending policy, legislative, and rule changes to the general assembly and other entities.
- Identifying topics for comprehensive review.
- Expanding the commission's expertise, as needed, by inviting nonmembers to address the commission or participate in subcommittee meetings under section 181.24 of the Revised Code.
- If the general assembly or other entity adopts any commission recommendations, assisting in training practitioners and in monitoring the impact of the changes.

The transition of the Commission as noted above will provide added support to the development of the felony sentencing database referred to as the Ohio Sentencing Data Platform. In order to successfully facilitate its development, a roadmap has been created which requires analysis, development, deployment, training, support, and evaluation for each of the phases of the Ohio Sentencing Data Platform (Appendix R).

One of the first and consequential actions will be empaneling a Governance Board to provide oversight and administration of the database and to collaborate on the identification and definition of data elements for collection and the implementation of the database. The members should include representatives from the Supreme Court of Ohio, the Governor's Office, the Attorney General, clerks, court administrators, chief probation officers, prosecutors, judges, defense bar, law enforcement, the University of Cincinnati, the Ohio State University and Case Western Reserve University – all of whom are currently participating and partnering with the Commission to advance the development of a sentencing database.

The initial development or pre-production stage, which can begin as soon as September 2020, requires the Commission to contract with the University of Cincinnati as outlined in Appendix R. This phase includes one pilot site/court and will allow a measured, thorough and comprehensive opportunity to examine systems and current practice. The development of the database includes mapping of the case flow processes to confirm all points are appropriately and accurately identified and included. We can assess data sources already available and how to capitalize upon them. That information can then be applied to the how the Uniform Sentencing Entry and companion documents are stored and used.

The work can begin with one pilot court that adopts the Uniform Sentencing Entry and related documents and then we can incrementally add courts that choose to participate as the project progresses. The Honorable Judge Reed, Allen County Court of Common Pleas, has agreed to be the pilot county/court.

Following the preproduction stage, the Commission, its partners and the Governance Board will assess progress, opportunities and challenges to executing a larger, longer term agreement. The Commission should have also received notice if it was awarded the Byrne/JAG grant submission (Appendix S).

The proposed creation of a felony sentencing database in Ohio is a necessary and substantial step toward a more transparent, fair, and more understandable criminal justice system. An ambitious but achievable goal, the sentencing database would swiftly transform Ohio into a nationwide leader in providing comprehensive, standardized felony sentencing data at the statewide level. Still, the felony sentencing data as collected from the Uniform Sentencing Entry and other potential sources of administrative court data is just one piece of the puzzle. We must also contemplate the timing and process to continue the rollout for felony sentencing but also execute the long-term goal to create a comprehensive criminal justice database that captures data from the first contact with law enforcement through post-case disposition. The Ohio Sentencing Data Platform must be more than felony sentence information to achieve a comprehensive understanding of criminal justice processes and outcomes in Ohio. The Ohio Justice System Map – Adult (Appendix T) illustrates all the possible points at which criminal justice system data can be, and often is, collected and shared in various forms.¹

By design, the final look and function of the Data Platform, including the data elements identified for collection, will be an iterative process that will evolve over time based on input from the participating courts and a wide range of users. As such, data elements may change as the process moves along, but will capture slices of the full spectrum of the criminal justice system including information from arraignment, charges, charges dismissed, plea, trial, and sentence. Because, for example, law enforcement agencies capture and report their own data from before a defendant enters the domain of the court, this data will not necessarily be linked. The same is true for data on the “back-end” of the system such as data from probation, community control, prison, and more. There is also a question of what data could be captured in the pretrial phase, including data on diversion and intervention in lieu of conviction programs. Because of this, the Ohio Sentencing Data Platform should be understood as a significant part of the long-term goal of creating a comprehensive criminal justice information system that unites data across the full spectrum from law enforcement through the execution of the imposed sentence.

With the stated long-term goal of developing a system that integrates and shares criminal justice information among Ohio’s criminal justice agencies, the state must first perform an assessment of the current data and its sources before knowing how to address the various roadblocks and challenges to fully integrating criminal justice data. The outline below proposes a way to assess the quality and availability of criminal justice data housed by state and local criminal justice agencies (in Ohio). Ultimately the goal of such an assessment is to identify the type of data gaps in the criminal justice system and explain how these deficits impact the work of practitioners, policy makers and researchers in the criminal justice system – and, notably, these same deficits undermine public confidence and trust.



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A Proposed Outline to Assess Current Criminal Justice Data in Ohio

- I. Background Assessment of Ohio's Unique Data Infrastructure
 - a. What laws and regulations govern the collection of the criminal justice system at the local, state, and federal level?
 - b. What is the current state of data collection, reporting, and sharing at the local, state, and federal level?
 - i. An updated scan of local case management systems and data currently collected
 1. A comprehensive assessment of what is collected by courts, including pretrial and diversion data
 2. A comprehensive assessment of what data is collected by agencies outside of the court such as law enforcement, jails, probation departments, and corrections
 3. A comprehensive assessment of state and federal reporting requirements and accuracy, quality, and completeness of reported data
 - ii. An updated scan on statewide systems of criminal justice data integration and sharing, such as Ohio Department of Public Safety's SOLVEⁱⁱ and the Office of the Ohio Public Defender's OPD Onlineⁱⁱⁱ. *Note: these are just two examples of an exhaustive list.*
 - iii. A comprehensive, current report of who maintains ownership of what data and where it is housed
 - c. Documentation of who has access to the various sources of data
 - i. Is the data publicly available?
 1. What are the requirements for accessing the data for research and analysis?
 - ii. Is the data available to criminal justice agencies?
 - iii. What governance models are in place to establish ownership and control over information and information exchanges?
- II. Assessment of the barriers to implementing better data collection locally
 - a. A scan of local IT infrastructure and funding challenges
 - b. A scan of data standardization issues statewide
 - i. Do standard definitions and formatting requirements exist for data elements across agencies? Across jurisdictions?
- III. Strategy for Addressing Data Gaps
 - a. Establish "Low-hanging fruit" based on data gaps that can be addressed easily
 - i. What data can be gathered through the effort of the Ohio Sentencing Data Platform as determined by the pilot project?
 - b. Assess criminal justice stakeholders' priorities for building information exchanges and repositories
 - i. What strategic plans exist currently, and what is the progress toward those plans? How do jurisdictions and agencies align with those plans?
 - ii. Is it a priority for information to simply be shared more easily across criminal justice agencies, or is there a desire for aggregate data reporting for the purposes of analysis?
 - c. How can the long-term goal of a comprehensive criminal justice information repository best be accomplished?
 - i. How can resources and political will best be leveraged at the state and local level?
 - d. Develop protocols for better data sharing and transparency, including standardized mechanisms for public requests of data



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- i. Develop data dashboards to publicly host data and increase public confidence
- e. Explore opportunities to link criminal justice data with data from other state agencies such as the Ohio Department of Mental Health and Addiction Service, the Ohio Department of Health and the Ohio Department of Job and Family Services – harking back to a project the Commission explored in 2016, *Using Data to Improve Public Safety and Criminal Justice Outcomes* – which unfortunately didn't come to fruition.

In summary, we are poised to make significant, meaningful, long-term change and turn the tide on the decades long missed opportunities to know more about the people we are trying to help in the criminal justice system. We have presented a modest, incremental path that ultimately will yield high dividend in building public trust in criminal justice processes and outcomes while at the same time helping judges and decision-makers have the best information available to perform their public service duty in the most impactful way.



ACKNOWLEDGMENTS

This effort wouldn't have been possible without the sheer determination of Chair/Judge Zmuda who seemed to effortlessly and expediently guide the Ad Hoc Committee through the myriad of resources required to thoroughly examine felony sentencing in Ohio. The Committee devoted considerable time and energy to the proposed documents and we are grateful for their contributions.

We were aided in our work by a number of others, including the Ohio Common Pleas Judges Association, the Clerk of Courts Association, the always reliable and resourceful Supreme Court of Ohio Law Library, Justice Michael Donnelly, Professor Berman from the Ohio State University, Moritz College of Law – Drug Enforcement and Policy Center, Dr. Said – the School of Information and Technology and Dr. Latessa – the School of Criminal Justice from the University of Cincinnati, Professor Ayesha Hardaway from Case Western Reserve University, Law School – Social Justice Law Center and importantly, Chief Justice O'Connor for her confidence in us to complete the task.

Lastly, we must acknowledge and share our profound thanks and appreciation for all the people that preceded us in a quest for sentencing data collection and analysis. As evidenced throughout the many reports and recommendations, there is a perpetual resurgence to know more about sentencing – patterns, trends, disparity, and proportionality – all of it. It is time to stop asking why we should create a database or point out why we can't do it – instead, let's embrace the path set out here and ask why not do it?

ⁱ See the section entitled "Who Collects Criminal Justice Data in Ohio?" in the *Data Disconnect* brief, <http://www.supremecourt.ohio.gov/Boards/Sentencing/resources/general/dataBrief.pdf>

ⁱⁱ <https://publicsafety.ohio.gov/wps/portal/gov/odps/what-we-do/our-programs-new/solve>

ⁱⁱⁱ <https://opd.ohio.gov/wps/portal/gov/opd/county-public-defender/opd-online/>