

SUPERIOR COURT OF CALIFORNIA COUNTY OF YUBA 215 5TH STREET, SUITE 200 MARYSVILLE, CA 95901 (530) 740-1800	
THE PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT:	
MISDEMEANOR ADVISEMENT OF RIGHTS, WAIVER, AND PLEA FORM - PROPOSITION 36 [PC § 1210, et seq.]	CASE NUMBER:

INSTRUCTIONS

Complete this form if you wish to plead guilty or no contest to the charges against you in order to be placed on probation pursuant to Penal Code § 1210, et seq. (“Proposition 36—the Substance Abuse and Crime Prevention Act of 2000”). If you successfully complete the requirements of your probationary sentence as directed by the court, you may petition the sentencing court to set aside the conviction and dismiss the charges. If you do not successfully complete these requirements, the court will revoke your probation and sentence you according to the otherwise applicable law, which may include a period of incarceration, including state prison.

Initial each applicable item **only** if you understand it, then sign and date this form on page 4. If you have questions about your case, the possible sentence or the information on this form, ask your attorney or the judge.

RIGHT TO AN ATTORNEY

- _____ 1. I understand that I have the right to be represented by an attorney throughout the proceedings. I understand that the court will appoint an attorney for me if I cannot afford to hire one, but at the end of the case, I may be asked to pay all or part of the costs of that attorney, if I can afford it. I understand that there are dangers and disadvantages to giving up my right to an attorney, and that it is almost always unwise to represent myself.

NATURE OF THE CHARGES (List all items you are charged with.)

- _____ 2. I understand that I am charged with the following offense(s) [LIST TYPE OF OFFENSE(S) AND SECTION NUMBER(S)]:
- _____ 3. If applicable - I understand that I am also charged with having the following prior conviction(s) [LIST OFFENSE(S), CASE NUMBER(S) AND DATE(S)]:
- _____ 4. If applicable – I understand that I am charged with violating the probation order(s) in the following case(s) [LIST CASE NUMBER(S) AND DATES(S)]:
- _____ 5. I understand the charge(s) against me, and the possible pleas and defenses.

CONSTITUTIONAL RIGHTS

- _____ 6. I understand that I have the **Right to a speedy, public jury trial**. At the trial, I would be presumed innocent, and I could not be convicted unless 12 impartial jurors were convinced of my guilt beyond a reasonable doubt.
- _____ 7. I understand that I have the **Right to confront and cross-examine all witnesses** testifying against me.
- _____ 8. I understand that I have the **Right to remain silent and not incriminate myself, and the Right to testify on my own behalf**. I understand that by pleading guilty, no contest, or admitting prior conviction (s) or probation violation(s), I am incriminating myself.
- _____ 9. I understand that I have the **Right to present evidence and to have the court issue subpoenas** to bring into court all witnesses and evidence favorable to me, at no cost to me.

PRIOR CONVICTIONS AND PROBATION VIOLATIONS

_____ 10. If applicable – I understand that I have all of the above Constitutional Rights for **all** of the charges against me, including any charged prior convictions or probation violations. However, for a charge of violating probation, I do not have the right to a jury trial, although I do have the right to a hearing before a judge. *(Note – Please complete No. 30 on page 3.)*

WAIVER OF RIGHTS

- _____ 11. I give up my Right to an attorney, and I choose to represent myself. *(Does not apply if you have an attorney.)*
- _____ 12. I give up my Right to a jury trial. *(Does not apply to preliminary hearing or if charged with probation violations)*
- _____ 13. I give up my Right to confront and cross-examine witnesses.
- _____ 14. I give up my Right to remain silent and to not incriminate myself.
- _____ 15. I give up my Right to produce evidence and witnesses on my own behalf.

PARTICIPATION IN PROBATION UNDER PROPOSITION 36

- _____ 16. I understand that conditions of my probation will require me to successfully complete a drug treatment program for a period of up to one year, as determined by the court based upon the severity of my addiction and my criminal history. The treatment program may consist of out-patient treatment, in-patient residential treatment, narcotic replacement therapy, drug education or prevention courses, or a combination thereof.
- _____ 17. I understand that I may also be required as a further condition of probation to complete community service hours and supplemental drug treatment services, including but not limited to vocational training, family counseling and literacy training. The court may also require me to participate in additional aftercare services for up to six months following completion of my drug treatment program.
- _____ 18. I understand that I may be ordered to make restitution and to pay a restitution fine of \$200 to \$10,000. Depending upon my ability to pay, I will also be required to pay for the costs of my placement in treatment and supervision services, in a minimum amount of \$200. If these fees and costs are not waived by the court, I will not be able to have my case dismissed until both the placement fees and restitution fine are paid.
- _____ 19. I understand that I must register with the police as a controlled substance offender. Failure to do so would constitute a misdemeanor.
- _____ 20. I understand that I may be required to undergo urinalysis to test for the presence of drugs.
- _____ 21. I understand that if I successfully complete all of the conditions of my probation, I may petition the sentencing court to set aside the conviction and dismiss the charges. If the court finds that I have completed all aspects of my drug treatment program, including aftercare and supplemental services and finds that there is reasonable cause to believe that I will not abuse controlled substances in the future, then the conviction will be set aside and the charges dismissed.
- _____ 22. I understand that if the charges are dismissed as indicated above, the arrest will be deemed to never have occurred and the record of the arrest and conviction may not be used without my consent to deny me any employment benefit, license or certificate. However, I must still disclose my arrest and conviction upon any application for a position as a peace officer, for public office, or for a license by a state or local agency. I will also be responsible to disclose the arrest and conviction when contracting with the California State Lottery and for purposes of serving on a jury.

FUTURE NON DRUG-RELATED OFFENSE OR VIOLATION OF CONDITION OF PROBATION.

_____ 23. I understand that the court may revoke my grant of probation if I am arrested for any non-drug-related offense or violate any non-drug-related condition of probation, and that I may thereafter be sentenced pursuant to otherwise applicable law.

FUTURE DRUG-RELATED OFFENSE OR VIOLATION OF CONDITION OF PROBATION.

- _____ 24. I understand that on a:
- (A) first violation of probation based on drug-related behavior, the court shall revoke my probation if the alleged violation is proved and I am found to pose a danger to the safety of others.
 - (B) second such violation, the court shall revoke my probation if the drug-related violation is proved and I am found to pose a danger to others or am not amenable to drug treatment.
- Note: Under (A) and (B) above, if the court does not revoke probation, my required drug treatment may be intensified.*
- (C) third such violation, my probation will be revoked if the violation is proven, and I may be sentenced under the otherwise applicable law.
- _____ 25. I understand that if I am not a citizen, my guilty or no contest plea will result in my deportation, exclusion for admission to this country, or denial of naturalization.
- _____ 26. I understand that my guilty or no contest plea in this case may be grounds for violating probation or parole which has previously been granted to me in any other case.
- _____ 27. I understand that I have a right to be sentenced by the judge who accepts my guilty or no contest plea in this case. I freely and voluntarily give up this right.
- _____ 28. If applicable – I freely and voluntarily admit any prior convictions and probation violations that I listed on this form, and I give up my right to a hearing before a judge regarding any probation violations. I understand that these admissions will increase the penalties in my case.

CONSEQUENCES OF REVOCATION OF PROPOSITION 36 PROBATION

- _____ 29. I understand that if my Proposition 36 probation is revoked for any reason, my sentence for the offenses which are charged include the following (complete and initial):
- _____

SECTION NUMBER	PRISON – MIN.	MAX.	FINE – MIN.	MAX.
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 - OTHER CONSEQUENCES: _____
 - _____

SECTION NUMBER	PRISON – MIN.	MAX.	FINE – MIN.	MAX.
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 - OTHER CONSEQUENCES: _____

OTHER ADVISEMENTS

DRUG LABORATORY FEE/DRUG PROGRAM FEE.

- _____ 30. I understand that if I am convicted of H&S 11350, 11355, 11363, 11364, 11368, 11375, 11377, 11382, 11390, 11391, 11550, 11357(a) or (c), or B&P 4322 and am found financially able, I will have to pay a drug program fee in the amount of \$_____ including penalty assessments [H&S 11372.7(a)] and a drug laboratory fee of \$_____ including penalty assessments [H&S 11372.5(a)].

HAZARDOUS SUBSTANCE DISPOSAL LAW (H&S 11374.5).

- _____ 31. I understand that if I am convicted of possession, transportation, or disposal of any hazardous substance that is a controlled substance or a chemical used in, or a byproduct of, the manufacture of a controlled substance in violation of any law, I will incur a penalty equal to the amount of the actual cost incurred by the state or local agency to remove and dispose of the said hazardous substance, chemical or byproduct, if the state or local agency requests the prosecuting authority to seek recovery of that cost.

DENIAL OF TANF, FOOD STAMPS, AND GENERAL RELIEF BENEFITS (WELF. & INST. CODE §§ 11251.3; 17012.5; 21 U.S.C.A. § 862a(a), (d)(2)).

- _____ 32. I understand that the Welfare Reform Act disqualifies persons convicted of drug-related felonies that involve the possession, use, or distribution of a controlled substance from receiving benefits under

the federal food stamp program and the Temporary Aid to Needy Families (TANF) program. I am specifically ineligible for CalWORKS aid, and if I am a member of an assistance unit receiving CalWORKS aid, I am also ineligible for non-health-care benefits, i.e., general relief benefits.

- _____ 33. I understand that in addition to the fine, the court will add assessments, which will significantly increase the amount I must pay.
- _____ 34. If applicable – I understand that I have a right to wait from 6 hours to 5 days prior to the pronouncement of the judgment for a misdemeanor. I give up this right and agree to be placed on Proposition 36 probation at this time.
- _____ 35. If applicable – I understand that I have the right to enter my plea before, and to be sentenced by, a judge. I give up this right and agree to enter my plea before, and to be sentenced by:

_____.
Temporary Judge

PLEA

I hereby freely and voluntarily plead _____.
GUILTY OR NO CONTEST

to: _____
LIST CHARGE(S)

Date: _____
Signature of Defendant

ATTORNEY’S STATEMENT

I am the attorney of record for the defendant. I have reviewed this form and any addenda with my client. I have explained each of the defendant’s rights to the defendant and answered all the defendant’s questions with regard to this plea. I have also discussed the facts of the defendant’s case with the defendant, and explained the consequences of this plea, the elements of the offense(s), and the possible defenses. I concur in this plea and in the defendant’s decision to waive his or her constitutional rights.

Date: _____
Signature of Defendant’s Attorney

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INTERPRETER’S STATEMENT (if applicable)

I, having been sworn or having a written oath on file, certify that I truly translated this form to the defendant in the language indicated below. The defendant stated that (s)he understood the contents of the form, and then (s)he initialed and signed the form.

Language: Spanish Other (specify): _____

Date: _____
Signature of Interpreter

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FINDINGS AND ORDER

This document having been completed and presented to the Court; the Court being satisfied that the plea and waivers were expressly, intelligently and voluntarily made; and the Court finding that there is factual basis for said plea, the Court accepts such plea and enters it on the record.

Date: _____
JUDGE OF THE SUPERIOR COURT