

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:	
FELONY 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.

CONSTITUTIONAL RIGHTS (Continued)

- _____ 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.)*

SPEEDY PRELIMINARY HEARING

- _____ 11. I understand that I am charged with a felony. I have a statutory right to a preliminary hearing and a right that this hearing be held within 10 court and 60 calendar days of my arraignment. I also have all of the above Constitutional Rights at the hearing, except that it would be conducted before a judge, rather than before a jury. *(Note – Please complete No. 17 below.)*

WAIVER OF RIGHTS

- _____ 12. I give up my Right to an attorney, and I choose to represent myself. *(Does not apply if you have an attorney.)*
- _____ 13. I give up my Right to a jury trial. *(Does not apply to preliminary hearing or if charged with probation violations)*
- _____ 14. I give up my Right to confront and cross-examine witnesses.
- _____ 15. I give up my Right to remain silent and to not incriminate myself.
- _____ 16. I give up my Right to produce evidence and witnesses on my own behalf.
- _____ 17. I give up my Right to a preliminary hearing before a judge as to any felony offense. I also give up my right to have that hearing held within the specified period.

PARTICIPATION IN PROBATION UNDER PROPOSITION 36

- _____ 18. 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.
- _____ 19. 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.
- _____ 20. 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.
- _____ 21. I understand that I must register with the police as a controlled substance offender. Failure to do so would constitute a misdemeanor.
- _____ 22. I understand that I may be required to undergo urinalysis to test for the presence of drugs.

PARTICIPATION IN PROBATION UNDER PROPOSITION 36 (Continued)

- _____ 23. 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.
- _____ 24. 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.

- _____ 25. 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.

- _____ 26. 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.
- _____ 27. 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.
- _____ 28. 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.
- _____ 29. 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.
- _____ 30. 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

- _____ 31. 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.
OTHER CONSEQUENCES: _____				

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

CONSEQUENCES OF REVOCATION OF PROPOSITION 36 PROBATION (Continued)

PAROLE RIGHTS.

_____ 32. In the event my PROPOSITION 36 probation is revoked and I am sentenced to state prison, I understand I could be released prior to the end of my term on parole for up to 3 years. If my parole is violated, I could be sent back to state prison for an additional year for each violation, up to a total of 48 additional months.

THREE YEAR PRIOR FOR CERTAIN HEALTH & SAFETY CODE OFFENSES (H&S 11370.2).

_____ 33. Due to the charge to which I am pleading to (H&S 11352, 11379 and/or 11379.5), I understand that if I am charged in the future with certain H&S violations, and it is simply alleged and proven that I was convicted of this offense, that fact would add 3 additional years to a future prison term.

FIREARM ADMONITION.

_____ 34. The charge(s) I am pleading to is/are a felony(ies). Anyone convicted of a felony may never again own, possess, or have custody or control of a firearm or parts of firearms or ammunition.

DRUG LABORATORY FEE/DRUG PROGRAM FEE.

_____ 35. I understand I will have to pay a drug laboratory fee of \$_____ including penalty assessments H&S 11372.5(a) and if I am found to be financially able, a drug program fee in the amount of \$_____ including penalty assessments [H&S 11372.7(a)].

HAZARDOUS SUBSTANCE DISPOSAL LAW (H&S 11374.5).

_____ 36. 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)).

_____ 37. 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.

_____ 38. I understand that in addition to the fine, the court will add assessments, which will significantly increase the amount I must pay.

_____ 39. If applicable – I understand that I have a right to be sentenced within 28 days of my plea. I give up this right and agree to be placed on Proposition 36 probation at this time.

_____ 40. 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's Name

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PLEA

I hereby freely and voluntarily plead _____
GUILTY OR NO CONTEST

to _____
LIST CHARGE(S)

SIGNATURE OF DEFENDANT

DATE

.....
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.

SIGNATURE OF DEFENDANT'S ATTORNEY

DATE

.....
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): _____

SIGNATURE OF INTERPRETER

TYPE OR PRINT NAME

DATE

.....
COURT'S FINDINGS AND ORDER

The court, having reviewed this form and any addenda, and having questioned the defendant, or his or her attorney, concerning the defendant's Constitutional Rights and the defendant's admission of prior conviction(s) and probation violation(s), if any, finds that the defendant has expressly, knowingly, understandingly, intelligently, and voluntarily waived his or her Constitutional Rights. The court finds that the defendant's plea(s) and admission(s) is/are freely and voluntarily made, with an understanding of the nature and consequences thereof, and that there is a factual basis for the plea. The court accepts the defendant's plea(s), the defendant's admission of prior conviction(s) and probation violation(s), if any, and orders this form filed and incorporated in the docket by reference as though fully set forth therein.

 JUDGE OF THE SUPERIOR COURT
 TEMPORARY JUDGE OF THE SUPERIOR COURT

DATE