

The OCPJA Bench Book Committee has reviewed this plea form at the request of the Judicial Conference. The following suggestions are for your consideration: (1) This form is a very complete analysis of direct and collateral consequences; (2) it may be advisable to delete or "xx" out portions that are not applicable to a particular case so to not confuse the Defendant with unnecessary language; (3) portions relevant to SB 201 (highlighted in yellow) appear accurate (within the current version of SB 201 which has ambiguities). Thanks to Judge Gene Lucci of Lake County Common Pleas Court for this submission.

**IN THE COURT OF COMMON PLEAS  
COUNTY, OHIO**

<p><b>STATE OF OHIO</b></p>	)	<p><b>CASE NO.</b> _____</p>
	)	
Plaintiff	)	<p><b>JUDGE</b> _____</p>
	)	
vs.	)	
	)	<p><b><u>WRITTEN PLEA OF GUILTY</u></b></p> <p><b><u>and JUDGMENT ENTRY</u></b></p>
_____	)	
	)	
Defendant	)	

I, \_\_\_\_\_, the defendant in the above-captioned case, hereby state that my counsel has explained to me the facts and circumstances surrounding my plea, and the court and my counsel have informed me of the charge(s) against me and the penalty provided by law.

Prior to signing this written plea of "guilty," the court has personally addressed and explained to me that I have the following constitutional rights which I voluntarily, knowingly, and intelligently waive by pleading "guilty."

The court has informed me, and I understand, that this plea is a complete admission of guilt and means I give up my rights:

To a jury trial or bench (judge) trial;

To require the state at a trial to prove my guilt beyond a reasonable doubt on every element of the offense(s);

To confront my accusers and question, or have my attorney question, witnesses against me;

To use the subpoena power of the court to call witnesses to testify for me;

Not to testify at a trial or hearing and have no one comment or use it against me if I decided not to testify;

To an attorney through any trial and appeal, and if I cannot afford one, an attorney free of charge to me, to represent me at the trial and any appeal; and

To appeal any decisions made by the judge, and the jury's decision (verdict) if the case was to go to a jury trial.

I hereby state that I understand these rights and privileges and the possible consequences of a guilty plea. I hereby waive and reject all of these rights. I am voluntarily pleading guilty of my own free will. I understand that this written plea of guilty constitutes an admission which may be used against me in any other court proceedings or at a later trial. By pleading guilty, I admit committing the offense(s), and will tell the judge the facts and circumstances of my guilt.

I am of sound mind, understand fully what I am doing, am not under the influence of drugs or alcohol, and I have not taken any drugs or alcohol in a 48 hour period preceding this hearing, except \_\_\_\_\_ . No threats have been made to me. No promises other than those which are part of this plea agreement have been made.

My attorney has explained my right to appeal a maximum sentence and any sentencing errors or irregularities. I know the judge may either sentence me today or refer my case for a presentence investigation and report and sentence me at a later date. I know I cannot appeal any decisions made by this or any other court prior to this plea hearing because I am now pleading guilty. If I desire to appeal, my notice of appeal must be filed in this court within 30 days of the court's entry of the judgment of my sentence.

I now withdraw any former "not guilty" plea and hereby enter a plea of "guilty" to the **offense(s)/specification(s)** listed on the sentencing computation chart.

I understand that certain specification(s) and/or a sanction for a post-release control (PRC) violation require **mandatory prison** that must be served prior to and consecutive with the prison term for the offense(s) to which the specification(s) is/are attached, and any prison term on the specification(s) is in addition to the stated minimum and maximum terms set forth on the sentencing computation chart.

I understand that the **minimum and maximum penalties** are set forth on the sentencing computation chart, which is incorporated into this document by reference.

A **qualifying offense** is a felony of the first or second degree, committed on or after March 22, 2019, that is not subject to life imprisonment.<sup>1</sup> For an individual qualifying offense, the **minimum term** is selected by the judge from the existing sentencing range for that offense. For concurrent sentences, the minimum term is derived from the longest of the minimum terms imposed on the qualifying offense(s). For consecutive sentences, the aggregate minimum term is all of the terms on all of the offenses being imposed consecutively, added together to achieve an aggregate minimum term.

For an individual **qualifying offense**, the maximum term is the minimum term plus 50% of that minimum term imposed on the most serious qualifying F-1 or F-2 offense being sentenced.<sup>2</sup> For concurrent sentences, the **maximum term** is the longest of the minimum terms imposed for the F-1 or F-2 plus 50% of the longest minimum term for the most serious qualifying felony being sentenced.<sup>3</sup> For consecutive sentences, the maximum term is the term with the longest minimum term OR definite term for the most serious felony being sentenced plus 50% of that longest minimum term OR definite term for the most serious felony being sentenced.<sup>4</sup>

If the court should choose to run all of my sentences **consecutively**, the aggregate minimum prison term would be \_\_\_\_\_ years + \_\_\_\_\_ months, and the maximum prison term would be \_\_\_\_\_ years + \_\_\_\_\_ months, and the maximum fine would be \$\_\_\_\_\_.<sup>5</sup> Further, any prison term the judge imposes will be the actual minimum term served up to the maximum term stated above.<sup>6</sup>

If I hold any **state-issued occupational, professional, or peace officer license or certification**, my plea and conviction may result in a suspension, denial of application or reapplication, termination, or other consequence affecting, my license or certification and/or deny my ability to pursue or continue in that career or professional employment.<sup>7</sup>

If I am granted community control sanctions by the judge, in addition to any fines, court costs, and any other costs of prosecution, I will be required to pay **supervision fees** to defray the expenses of adult probation supervision and services.

If I fail to pay all fines and costs in full, the state can block my **motor vehicle registration** application or transfer of registration (license plates) until I do pay it in full.<sup>8</sup>

If I was on **post-release control** at the time I committed any of the offenses to which I am pleading guilty, the judge may terminate my post-release control and sentence me to a consecutive term in prison of a minimum of one year and up to the balance remaining on my post-release control as a sanction for violating post-release control by committing a new felony.<sup>9</sup>

If I was on probation or **community control** at the time I committed any of the offenses to which I am pleading guilty, my plea of guilty may likely be used as proof that I violated the terms of my probation or community control sanction in that other case.

If I am pleading to multiple counts, or if I have been or will be sentenced to prison on another case in this or any other court or by any other judge, I understand the court could run some or all of my sentences in this case **consecutively**, or consecutively with any other cases or counts.

If I am pleading guilty to a **sexually oriented offense**,<sup>10</sup> **an arson offense**,<sup>11</sup> or a **qualifying violent offender offense**,<sup>12</sup> I will be required to register and continually update for a certain number of years my home, work, and school addresses, and provide and periodically update various other information about me, and have residential restrictions, and the failure to comply would be another felony charge.

If I am pleading guilty to an **offense of violence**<sup>13</sup> and the court orders a mental health evaluation or any treatment for mental illness, the judge will order the police department that arrested me to enter my information into the national FBI computer database (in Ohio, called LEADS"), informing law enforcement everywhere that accesses that database that I have a mental health condition coupled with a conviction of an offense of violence.<sup>14</sup>

If I am pleading "guilty" to a **Felony of the First or Second degree** and if I am found to be a repeat violent offender<sup>15</sup> or a major drug offender,<sup>16</sup> I could face additional or mandatory prison time, and if I am found to be a sexually violent predator,<sup>17</sup> I may be required to serve additional prison time up to life in prison.

If I am pleading guilty to a felony drug offense, any offense of the level of a felony of the fourth degree or higher, or any domestic violence offense or offense with elements similar to domestic violence, misdemeanor or otherwise, my right to purchase, own, possess, or use **firearms or ammunition for firearms will be disabled and prohibited**, under both state and federal law, and I will have to surrender all firearms and ammunition I presently have in my possession or under my control, and if I hold employment that requires possession of a firearm, I may forfeit or be terminated from that employment.<sup>18</sup>

If I am pleading guilty to a felony offense, I will not be able to exercise my right or privilege to **vote** while incarcerated in jail or prison; I cannot **serve as a juror** while in jail or prison or while on community control sanctions, post-release control, or parole, and I cannot hold any **position of public honor or trust**.<sup>19</sup>

While in prison for a qualifying F-1 or F-2 offense, unless I am serving any term for any sexually oriented offense, an offense of violence, any mandatory prison term, or any prison term for which the law does not allow a reduction or credit, and if I am otherwise eligible, I may be able to earn **“good time” credit**, being a reduction of my minimum aggregate prison term of between 5% and 15% for exceptional conduct or adjustment to incarceration as the basis for awarding the reduction. The earned reduction of minimum prison term credit<sup>20</sup> (ERMPT) is not guaranteed. The Department of Rehabilitation and Correction (DRC) might not request ERMPT. If ERMPT is requested by DRC, there is a presumption the court will grant it. The court can still deny ERMPT upon sufficient proof rebutting the presumption that the court should grant ERMPT.

While in prison, unless I am serving any term for any sexually oriented offense, an offense of violence, any mandatory prison term, or any prison term for which the law does not allow a reduction or credit, and if I am otherwise eligible, I may be able to earn days of **credit up to 8%** of my prison time for program and activity participation and completion.<sup>21</sup> This prison credit is not guaranteed and is determined by the DRC.

For non-qualifying F-1 and F-2 offenders,<sup>22</sup> and F-3, F-4, and F-5 offenders, my release date from prison will be at the end of the actual (definite) prison term imposed by the judge, less any jail time credit. For qualifying F-1 and F-2 offenders, my **presumptive release date** from prison is at the end of the aggregate minimum term (after serving any mandatory prison for any specification(s) and/or PRC violation time imposed), less any jail time credit; however, my presumptive release date is rebuttable, and if I commit institutional rule infractions that compromise prison security or threaten the safety of prison staff or inmates, or I commit a violation of law that was not prosecuted, and the infractions or violations show that I have not been rehabilitated, or, by my conduct, I show that I continue to pose a threat to society, or if I have been placed by the DRC in extended restrictive housing at any time within the year preceding the date of my release hearing, or if I am classified by DRC as a security level three, four, or five, or at a higher security level, then my release date would be up to the aggregate maximum term.<sup>23</sup>

After prison release, I may have / will have a mandatory \_\_\_\_\_ (3 / 5) years of **post-release control**.<sup>24</sup> I **may be required to wear a GPS device**.<sup>25</sup> If I violate post-release control, I could be returned to prison administratively for up to another nine months for each violation, subject to a maximum cumulative prison term for all violations that does not exceed 50% of the prison term originally imposed or up to 50% of the minimum prison term originally imposed as part of the stated non-life felony indefinite prison term.<sup>26</sup> If my violation of post-release control is a new felony, the judge in the new felony case, in addition to sending me to prison on the new case, can

send me back to prison on this case for the greater of one year or the balance remaining on the period of post-release control. A prison term imposed for the violation of PRC shall be served prior to and consecutive with any prison term imposed for the new felony.

My eligibility for **judicial release** from prison will not include any mandatory prison terms, such as prison time required by certain offenses or specifications, or the imposition of prison for violation of post-release control, or prison sentences imposed upon a person holding a public office in this state who committed certain offenses. Therefore, only the aggregate minimum non-mandatory term(s) will be used to determine eligibility for judicial release.<sup>27</sup>

If I am granted **community control** at any point in my sentence, I will have conditions to follow and if I violate any of those conditions, I could be given a longer period under court control, greater restrictions, or a prison term as stated on the sentencing computation chart. Community control may be imposed for a term of up to five years. I understand that, whether I am sentenced to a prison term or community control sanctions, I am prohibited from ingesting or being injected with a drug of abuse and am subject to random testing and can be sanctioned for a violation.<sup>28</sup>

If I am pleading guilty to a felony drug abuse offense, in addition to prison, jail, community control, and other sanctions, the court may suspend my driver's license for up to five years.<sup>29</sup>

I understand that the offense(s) to which I am pleading guilty may result in a **license suspension**, Class \_\_\_\_\_, of \_\_\_\_\_ to \_\_\_\_\_ years, and that **points** may be assessed on my driving record.

I understand that if my criminal conduct resulted in harm or damage to another's person or property, the court may order me to pay **restitution**, based on the victim's economic loss, in an amount that may be presently unknown, but possibly may be up to \$ \_\_\_\_\_ or more in the aggregate, and the court may apply a surcharge for collecting and processing restitution payments, and that my plea in this case can be used against me in any further civil or criminal proceeding or case.<sup>30</sup>

I understand that the court, as part of a community control sanction, can order me to have "**no contact**" with any victim or co-defendant or any other person/company.

I understand that I will **forfeit** any contraband, instrumentalities, or proceeds of any offense, identified in any specifications, or otherwise voluntarily as part of my plea agreement;

I will be subject to being ordered to pay the **costs of prosecution**, including transportation costs between the court, jail, and prison; and if I am sentenced to a period of community control sanctions, I may volunteer, or be ordered, to perform community service to work off the costs of prosecution at the hourly rate set by the local rules of court, where each hour of work performed reduces the judgment by that amount.

**Other:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

I state that I \_\_\_\_\_ (am / am not) a citizen of the United States. If I am **not a citizen of the United States of America**, my plea and conviction in this case may lead to my deportation,

removal, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States, and I understand that my plea will be reported to the immigration authorities.<sup>31</sup>

I understand for this/these offense(s) that I \_\_\_\_\_ (do / do not) face mandatory time in prison and if I go to prison the law \_\_\_\_\_ (does / does not) allow me to apply for a judicial release after a specific length of time served.

I state that I have disclosed to my attorney(s) everything I considered important in this case; that I have had sufficient time to discuss this case with my attorney(s); my attorney(s) has/have done everything I have asked my attorney(s) to do for me in this case; and I am completely satisfied with the **legal representation** provided by my attorney(s) in this case.

I have discussed this written plea of guilty with my attorney(s); my attorney(s) has/have answered all of my questions to my satisfaction; I understand all of the terms and conditions stated in this document; and I wish to sign and do sign this document **voluntarily and of my own free will**.

Signed and Dated: \_\_\_\_\_

\_\_\_\_\_  
**SIGNATURE OF DEFENDANT**

I, \_\_\_\_\_, counsel for the defendant herein, stipulate to the court that I witnessed my client sign this WRITTEN PLEA OF GUILTY; that I have reviewed this document with him/her; that I have reviewed all the consequences of my client changing/entering his/her plea to guilty; and I have, prior to these proceedings, advised my client that he/she \_\_\_\_\_ (does / does not) face a mandatory prison term with this guilty plea.

\_\_\_\_\_  
**ATTORNEY FOR DEFENDANT**

**WITNESSED BY:**

\_\_\_\_\_  
**ASSISTANT PROSECUTOR**

### **JUDGMENT ENTRY**

The court finds that the defendant, in open court, was advised of all his/her constitutional rights, that he/she understood those rights, and has made a knowing, intelligent, and voluntary waiver of those rights before entering his/her plea. The above plea of "guilty" is accepted and this WRITTEN PLEA OF GUILTY is ordered filed.

\_\_\_\_\_  
JUDGE

Footnotes only appear on Page 7.

FOOTNOTES

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- <sup>1</sup> R.C. 2929.144(A).
- <sup>2</sup> R.C. 2929.144(B)(1).
- <sup>3</sup> R.C. 2929.144(B)(3).
- <sup>4</sup> R.C. 2929.144(B)(2).
- <sup>5</sup> R.C. 2929.144(C).
- <sup>6</sup> R.C. 2929.144(B)(4).
- <sup>7</sup> Among many others, see R.C. 2925.38.
- <sup>8</sup> R.C. 2947.09.
- <sup>9</sup> R.C. 2967.28 and R.C. 2943.032(A).
- <sup>10</sup> **A “sexually oriented offense” is defined in R.C. 2950.01(A).**
- <sup>11</sup> **“Arson-related offense” means a violation of section 2909.02 or 2909.03 of the Revised Code, and any attempt to commit, conspiracy to commit, or complicity in committing either offense.**
- <sup>12</sup> **Commission, or attempt, conspiracy, or complicity to commit, any violation of R.C. 2903.01, 2903.02, 2903.03, 2905.01, or an F-2 2905.02, on or after 3/20/2019. See R.C. 2903.41.**
- <sup>13</sup> **“Offense of violence” means any of the following: (a) A violation of section 2903.01, 2903.02, 2903.03, 2903.04, 2903.11, 2903.12, 2903.13, 2903.15, 2903.21, 2903.211, 2903.22, 2905.01, 2905.02, 2905.11, 2905.32, 2907.02, 2907.03, 2907.05, 2909.02, 2909.03, 2909.24, 2911.01, 2911.02, 2911.11, 2917.01, 2917.02, 2917.03, 2917.31, 2919.25, 2921.03, 2921.04, 2921.34, or 2923.161, of division (A)(1) of section 2903.34, of division (A)(1), (2), or (3) of section 2911.12, or of division (B)(1), (2), (3), or (4) of section 2919.22 of the Revised Code or felonious sexual penetration in violation of former section 2907.12 of the Revised Code; (b) A violation of an existing or former municipal ordinance or law of this or any other state or the United States, substantially equivalent to any section, division, or offense listed in division (A)(9)(a) of this section; (c) An offense, other than a traffic offense, under an existing or former municipal ordinance or law of this or any other state or the United States, committed purposely or knowingly, and involving physical harm to persons or a risk of serious physical harm to persons; (d) A conspiracy or attempt to commit, or complicity in committing, any offense under division (A)(9)(a), (b), or (c) of this section.**
- <sup>14</sup> R.C. 2929.44, “Deputy Suzanne Hopper Act.”
- <sup>15</sup> R.C. 2929.14(B)(2), R.C. 2941.149.
- <sup>16</sup> R.C. 2941.1410, R.C. 2929.144(B)(4).
- <sup>17</sup> R.C. 2971.03(B)(3)(a),(b),(c), and (d).
- <sup>18</sup> 18 U.S.C.A. 922(g)(9) and R.C. 2923.13.
- <sup>19</sup> R.C. 2961.01.
- <sup>20</sup> R.C. 2967.271.
- <sup>21</sup> R.C. 2967.193(A)(3).
- <sup>22</sup> Offenses committed before March 22, 2019.
- <sup>23</sup> R.C. 2967.271.
- <sup>24</sup> R.C. 2967.28(B) & (C). PRC is mandatory for all F-1, F-2, F-3 offenses of violence, and all felony sex offenses; for five years, non-reducible, on F-1 and all felony sex offenses; otherwise, optional for three years, reducible by the parole board.
- <sup>25</sup> R.C. 2967.28(D)(2).
- <sup>26</sup> R.C. 2943.032(A).
- <sup>27</sup> R.C. 2929.20.
- <sup>28</sup> R.C. 2929.15(A)(1), (D)(2), and (D)(3).
- <sup>29</sup> R.C. 2925.03(G) and R.C. 2925.11(E).
- <sup>30</sup> R.C. 2929.18, R.C. 2929.28.
- <sup>31</sup> R.C. 2943.031.