

DISTRICT COURT, COUNTY OF WELD, STATE OF COLORADO

CASE NO. _____

DIVISION _____

ADVISEMENT OF RIGHTS IN A JUVENILE DELINQUENCY PROCEEDING

THE PEOPLE OF THE STATE OF COLORADO IN THE INTEREST OF

_____, Juvenile.

The juvenile is hereby advised that s/he has the following rights:

1. You have the right to know the nature of the charges against you.
2. You have the right to remain silent. Anything you say can be used against you.
3. You have the right to bail in most cases.
4. You have the right to have a lawyer represent you. If you cannot afford a lawyer, you may request that the court appoint a lawyer to represent you. The court will appoint the Public Defender to represent you if you qualify for their services.
5. You have the right to exercise any of the following rights even against your lawyer's advice if you have a lawyer:
 - a) the right to remain silent about this case;
 - b) the right to have a lawyer represent you and be present with you during any conferences or questioning by anyone about this case, at all court hearings, and at trial;
 - c) the right to plea **not guilty** and have a trial;
 - d) the right to appeal your case to a higher court if you are convicted at trial.
6. The right to a trial includes:
 - a) Remain silent and require the District Attorney to prove your guilt beyond a reasonable doubt
 - b) Be represented by an attorney
 - c) Call witnesses on your behalf and to present evidence
 - d) Subpoena witnesses to make them appear and to make them testify
 - e) Cross-examine or to ask questions of any witness that testifies against you.

Any plea that you enter must be voluntary, not coerced or because someone has put undue pressure on you to enter the plea. When you enter a guilty plea you give up your right to have a trial.

7. You have the right to demand a trial to a jury of six persons if you are charged with a felony which is a crime of violence or a jury of twelve persons if you are charged as an Aggravated Juvenile Offender. The verdict in a jury trial must be unanimous (all votes guilty or all votes not guilty). Your jury trial must be held within six months of the time that you plead not guilty.

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8. In all other cases you are entitled to a trial to the court within 60 days of the time that you plead not guilty.

9. You have the right to a preliminary hearing to determine if there is probable cause to believe a delinquent act was committed by you if you are accused in the Petition of a delinquent act that would be a class 1, 2 or 3 felony, a crime of violence, a felony which requires mandatory sentencing, a sexual offense under C.R.S. §18-3-401 *et seq.*, or if you are in detention and are charged with a class 4, 5 or 6 felony. A written motion requesting the hearing must be filed within 10 days after the advisement hearing. If you are in detention, the hearing must be held within 30 days of filing the motion.

10. A mandatory restraining order will enter, prohibiting you and your parents or legal guardians from harassing, molesting, intimidating, retaliating against, or tampering with any witness or victim of the delinquent act alleged in the Petition. The Court may enter other orders deemed necessary pursuant to C.R.S. 19-2-707.

11. If you are found guilty at trial or plead guilty, you are entitled to be sentenced within 45 days.

The sentencing options available to the court are:

Deferred Adjudication – You may be supervised by the probation department for up to one year. That period may be extended for an additional year. If you comply with the terms and conditions of your deferred adjudication, your guilty plea will be withdrawn and your case dismissed. You will have no permanent record of adjudication. The district attorney must consent to a deferred adjudication or the court cannot enter such an order.

Probation – If you are adjudicated a juvenile delinquent you may be placed on probation for up to two years, with conditions such as reporting to a probation officer, keeping a curfew, drug/alcohol treatment, individual/family counseling, not possessing weapons, not violating the law, attending school regularly, and performing community service hours. Requirements can be imposed upon parents or guardians. Your probation will not terminate until you have complied with all of the court orders or the court otherwise enters an order terminating probation.

Detention – If you are under 18 years of age at the time of sentencing, the court can sentence you to up to 45 days in the detention center. If you are over 18 years of age at the time of sentencing, the court can sentence you to up to 180 days in the Weld County Jail.

Mandatory Detention – If you are adjudicated delinquent for the commission of possession of a dangerous or illegal weapon, possession of a defaced firearm, unlawfully carrying a concealed weapon, prohibited use of a weapon, illegal discharge of a firearm, illegal possession of a handgun, using a firearm in a felony menacing, or any crime of violence, the court **shall** sentence you to a minimum period of detention of not less than five days. If you are adjudicated delinquent for failure to register as a sex offender you **shall** be sentenced to a 45 day detention sentence.

Out-of-Home Sentencing - The court can order that you be placed outside of your home with a relative, with the Department of Social Services, or in the Division of Youth Corrections. **If you are a Mandatory Sentence Offender or a Repeat Juvenile Offender, the Court shall place you outside of your home for at least one year unless the court determines another sentence would be more appropriate. If you are adjudicated for the class 6 felony of failure to register as a sex offender, or if you are a Violent Juvenile Offender** (unless you are 10 - 12 years old and the court determines another sentence would be more appropriate), **the Court shall sentence you to a minimum one year out of home.**

A Mandatory Sentence Offender is a juvenile who has been adjudicated a juvenile delinquent three times or has been adjudicated a juvenile delinquent twice and had his/her probation revoked for a delinquent act or has been adjudicated a juvenile delinquent, had his/her probation revoked and is subsequently adjudicated a juvenile delinquent. If you are eighteen years of age or older on the date of the sentencing hearing you may be sentenced to the county jail or to a community corrections program for a period not to exceed two years.

A Repeat Juvenile Offender is a juvenile who has been previously adjudicated a juvenile delinquent and who in this case is adjudicated for, or has his probation revoked for, a felony. If you are eighteen years of age or older on the date of the sentencing hearing you may be sentenced to the county jail or to a community corrections program for a period not to exceed two years.

A Violent Juvenile Offender is a juvenile who is adjudicated for a crime of violence. The court can order a Violent Juvenile Offender serve a minimum term at the Division of Youth Corrections before release on parole. If you are eighteen years of age or older on the date of the sentencing hearing you may be sentenced to the county jail or to a community corrections program for a period not to exceed two years.

An Aggravated Juvenile Offender is a juvenile who is adjudicated for, or has his/her probation revoked for, a class 1 or 2 felony; or a juvenile who is adjudicated delinquent for a felony and is subsequently adjudicated a juvenile delinquent for an act that is a crime of violence or has his/her probation revoked for a delinquent act which is a crime of violence; or is adjudicated delinquent or has his/her probation revoked for a delinquent act of felony sexual assault or incest. An Aggravated Juvenile Offender **shall** be committed to the Division of Youth Corrections from 3 to 7 years for a class 1 felony, from 3 to 5 years for a class 2 felony, and otherwise for up to 5 years.

The court can impose a \$300 fine and \$454 court costs for a felony and \$156 court costs for a misdemeanor for crimes committed after July 1, 2007. For those crimes committed after May 1, 2003 until July 1, 2007, the court can impose a fine of \$300 and \$415..50 court costs for a felony and \$138 court costs for a misdemeanor. Any offense for which a factual basis involves a sex offense requires the payment of a fee of \$128 plus surcharges depending on the degree of the offense. Drug related offenses require the payment of additional surcharges as well related to the level of the offense.

The court can order that you perform **community service**, which is volunteer work for a non-profit organization or government agency.

The court can order that you pay any **damages** that were suffered by the victim as a result of your actions, which is called restitution. Your parents, guardian or legal custodian could be responsible for paying restitution up to \$25,000 for each delinquent act.

Department of Human Services, Division of Youth Corrections. The court can commit juveniles 12 years of age and older for up to two years in a locked facility. A juvenile 10 - 11 years of age can be committed to a locked facility for up to two years for a class 1, 2, or 3 felony. All sentences to DYC include six months of mandatory parole. Pursuant to C.R.S. 19-2-921(4), the Department of Human Services may petition the court to extend the commitment for an additional period not to exceed two years.

Department of Motor Vehicles. If you have a minor or provisional driver's license and are adjudicated for an offense listed in §§18-4-509(2), 18-18-404(1)(a)(II), 18-18-405(2)(a)(IV)(A), 18-18-406(1),(3)(a)(I), 18-18-406(4)(a)(I), 18-4-501 if the factual basis of the offense involves defacing property as described in 18-4-509(2) 18-13-122(2), or 12-47-101(a)(b) or 1(c) or is criminal mischief involving a motor vehicle, 18-4-503, 18-4-409, the court will order immediate surrender of your license and such license will be immediately revoked by the Department of Motor Vehicles for a period of not less than one year.

YOU HAVE THE RIGHT TO HAVE ALL HEARINGS EXCEPT ADVISEMENT HEARINGS, DETENTION HEARINGS, AND PRELIMINARY HEARINGS, IN FRONT OF A DISTRICT COURT JUDGE. THIS COURT IS PRESIDED OVER BY A DISTRICT COURT MAGISTRATE. THE RIGHT TO REQUIRE A HEARING BEFORE A JUDGE SHALL BE DEEMED WAIVED UNLESS A REQUEST IS MADE BY ANY PARTY THAT THE HEARING BE HELD BEFORE A JUDGE AT THE TIME THE MATTER IS SET FOR HEARING.

YOU HAVE THE RIGHT TO REQUEST THAT A DISTRICT COURT JUDGE REVIEW RULINGS BY A MAGISTRATE ENTERED IN HEARINGS WHERE YOU DID NOT HAVE THE RIGHT TO BE HEARD BY A DISTRICT JUDGE. YOU MUST MAKE YOUR REQUEST IN WRITING WITHIN 15 DAYS AFTER YOU RECEIVE NOTICE OF THE RULING AND CLEARLY SET FORTH THE GROUNDS YOU RELY ON FOR SUCH REVIEW.

Speak to the District Attorney The District Attorney represents the State of Colorado and is the one who is prosecuting the charges. Plea-bargaining occurs in many cases. **You may meet with the district attorney today.** In some cases, the district attorney may not make a plea bargain until s/he has more information from the police or from an alleged victim of the crime. In all cases, you must decide whether the plea bargain offered is right for you. You may always reject an offered plea bargain.

TODAY YOU MUST DO ONE OF THE FOLLOWING THINGS:

- REQUEST TO SPEAK TO A LAWYER;
- SPEAK WITH THE D.A. TO SEE IF YOU CAN REACH A PLEA AGREEMENT;
- SET THIS CASE FOR PRELIMINARY HEARING, IF YOU HAVE THE RIGHT TO A PRELIMINARY HEARING; OR
- ENTER A PLEA.

PLEASE CIRCLE YES OR NO TO THE FOLLOWING QUESTIONS:

Do you understand your rights as explained above?

YES NO

Do you want to have a lawyer assist you?

YES NO

If you want a lawyer but do not think you can afford to hire one,

Do you want to be referred to the Public Defender's Office?

YES NO

Do you understand these questions?

YES NO

If not, what don't you understand?

Juvenile's Current Address: _____

Juvenile's Home Phone #: _____

Juvenile's Signature: _____

Parent/Guardian/Legal Custodian's Signature: _____