

## **PLEAS IN ABSENTIA**

1. Is there a **notarized** affidavit from the Defendant? Accurate case number(s)?
2. Does the affidavit indicate where the Defendant is located outside of the court's jurisdiction? Does the State agree?
3. Is the person who notarized the affidavit, a notary in the state where the Defendant is currently located?
4. Does the affidavit indicate whether the Defendant understands that he/she will be adjudicated guilty or is he/she requesting a withhold? If the Court does not accept the request for a withhold, does the Defendant understand that he/she will be adjudicated guilty?
5. Does the affidavit state that the Defendant is entering the plea freely and voluntarily?
6. Does the affidavit articulate that the Defendant understands and is freely and voluntarily entering the plea in absentia?
7. The affidavit must indicate the following:
  - The nature of the charge– statement of the charge and whether it is a first degree or second degree misdemeanor and the minimum and maximum sentences.
  - If the charge may be enhanced, the affidavit must indicate that if the Defendant is charged with the offense again in the future, he/she may face a greater fine, penalty, (and may eventually be charged with a felony-*if applicable*).
  - The difference between plea of guilty, not guilty and no contest.

- The Defendant read and understands the plea form.
- The Defendant is not under the influence of any drugs or alcohol which would affect the Defendant's ability to understand what the Defendant is doing.
- The right to trial by jury.
- The right to an attorney, and the right to have an attorney appointed if the Defendant cannot afford one.
- Whether the Defendant is satisfied with the attorney's representation?
- The right to require the State to prove guilt beyond a reasonable doubt.
- The right to question the witnesses at trial
- The right of the Defendant to call witnesses and subpoena witnesses.
- The right to have the presumption of innocence until the State proves guilt beyond a reasonable doubt.
- The right to remain silent.
- The right to testify and have the defendant testimony considered by the same standards as other witnesses.
- The Defendant is giving up his right to an appeal unless it is an illegal sentence or objection to jurisdiction?
- The affidavit should reflect the Defendant's signature is notarized, and it is submitted by the attorney of record.

8. What is the term of probation? Will probation be remote reporting?

9. Is there an agreement to allow the Defendant to petition for early termination of probation?
10. Is there a fine? Subject to 5% surcharge?
11. What are the exact court costs? Attorneys may contact the Clerk of Court requesting the exact costs.
12. Does the affidavit indicate \$50.00 cost of prosecution?
13. Does the affidavit indicate a public defender application fee (if applicable)?
14. All terms of the plea must be specifically listed.
15. Does the affidavit indicate
  - a. if the Defendant is not a U.S. citizen, by entering the plea, it will subject the Defendant to deportation or removal proceedings?
  - b. If the Defendant is deported, that would not be a basis to withdraw his/her plea in this case.
16. Are there civil citations to be resolved? Are the terms in the affidavit?
17. Please tender the documentation for a plea in absentia to the State prior to court.
18. Are fingerprints necessary? If so, does the print card clearly indicate where and who (a certified law enforcement officer/agency) took the prints? Please include badge number.
  - a. If prints are required and are not submitted with a plea in absentia, the Court will require the Defendant to present in Court on a specific date and time to have his/her prints

rolled in front of the judge who took the plea.

- b.** The date and time prints are to be rolled must be included in the plea in absentia form as a condition of probation.