



IN THE \_\_\_\_\_<sup>TH</sup> JUDICIAL DISTRICT COURT  
NUECES COUNTY, TEXAS

THE STATE OF TEXAS  
Vs.

No. \_\_\_\_\_

**COURT'S WRITTEN ADMONISHMENTS TO DEFENDANT**  
**ON DEFENDANT'S PLEA OF GUILTY OR NOLO CONTENDERE**

Defendant herein has informed the Court that Defendant desires to enter a plea of guilty or a plea of nolo contendere in this cause. Accordingly, pursuant to Art. 26.13(d), Texas Code of Criminal Procedure [Tx.C.Cr.P.], the Court admonishes Defendant in writing as follows:

**Perjury Admonishment.** When the hearing begins, you will be placed under oath. *You are now warned that any statements you make must be the truth.* If you make a false statement during this hearing, you may be charged with the offense of aggravated perjury, which is punishable by imprisonment in the state penitentiary for any term of not more than 10 years or less than 2 years and a fine not to exceed \$10,000; or you may be held in contempt of court, which is punishable by confinement in jail for a term not to exceed 180 days or by a fine not to exceed \$500 or both; and if you are granted community supervision, your community supervision may be revoked, and you may be sent to prison or to State Jail.

**Offense Charged.** You are charged with the offense of \_\_\_\_\_ alleged to have occurred in Nueces County, Texas on \_\_\_\_\_. The punishment range applicable for this offense is stated in the "Court's Written Admonishments on Range of Punishment" also given to you this date. Please refer to that part of the admonishments for the range of punishment applicable in your case. Should you have any questions about the range of punishment, please ask them during the hearing.

**Court Not Required to Accept Punishment Recommendations.** In assessing your punishment, the Court may consider recommendations made by the State or your attorney, but the Court is not required to accept or follow any recommendations so made. Whether you are found guilty or your adjudication is deferred, the Court will consider the evidence and then assess whatever punishment the Court feels is proper regardless of any recommendations made.

**Plea Bargain Agreement.** You and your attorney may enter into a plea bargain agreement with the State. If the Court accepts your plea and approves the agreement, the Court will follow the agreement and assess your punishment not to exceed the plea bargain. Keep in mind that the Court does not participate in any plea bargaining or negotiation in any case.

**If Plea Bargain Rejected.** If the Court rejects the plea bargain agreement, you have two options: 1) You may withdraw your plea; your plea of not guilty is then restored. Your case will then be set for trial before the Court or a jury on your plea of not guilty, unless you reach another agreement acceptable to the Court; or 2) You may continue with your plea without a plea bargain agreement. See "If No Plea Bargain" below.

**If Plea Bargain Accepted.** If the Court accepts the plea bargain agreement, and the punishment does not exceed the punishment recommended by the State and agreed to by you, you may appeal: 1) only those matters that were raised by written motion filed and ruled upon by the Court before the plea; or 2) after getting the Court's permission to appeal. This means that you have a limited right to appeal if the Court follows the plea bargain.

**If No Plea Bargain.** If you enter a plea of guilty/nolo contendere without a plea bargain agreement and the Court makes a sentencing decision that you do not like, you have the right to appeal. But, because you entered such a plea without a plea bargain agreement, your right to appeal may be extremely limited.

**Voluntary Plea.** Your plea must be voluntary. The Court cannot accept your plea if anyone forced you, tried to force you or persuaded you to make that plea; or if anyone threatened you or promised you anything to get you to make that plea; or if your plea is influenced by any consideration of fear or a delusive hope of a pardon prompting you to confess your guilt. *Your plea must be of your own free will.*

**Basis for Guilty Plea.** Your plea of guilty may be accepted by the Court only if you are in fact guilty; you should not plead guilty for any other reason. By pleading guilty, the Court will find either that you are guilty or that the evidence substantiates your guilt.

**Basis for Nolo Contendere Plea.** You may plead nolo contendere (that is, no contest) if you do not want to plead guilty, but you will not contest, challenge or oppose the charges or evidence against you. A plea of nolo contendere has the same effect as a plea of guilty in that the Court will find either that you are guilty or that the evidence substantiates your guilt.

**Right to Plead Not Guilty.** Even though you know that you may be guilty, you still have the right to plead not guilty and to force the State to prove your guilt beyond a reasonable doubt. You have basic trial rights: the right to a trial by jury; the right to remain silent and not testify; the right to force the State to bring witnesses into court to testify against you; the right to confront and, through your attorney, to cross-examine the State's witnesses; the right to compel the attendance of witnesses in your behalf; and the right to present evidence in your defense. These are some of your constitutional rights that you waive or give up by pleading guilty or nolo contendere and by agreeing to be tried before the Court without a jury upon stipulated or agreed testimony and evidence.

**If Not a Citizen.** If you are not a citizen of the United States, a plea of guilty or nolo contendere in this case may result in your deportation, your exclusion from admission to this country, or your denial of naturalization under federal law. This Court has no power to bind the federal government regarding your immigrant status in this country as a result of any plea bargain agreement you may have with the State.

**Right to Notify Consular Office.** If you are not a citizen of the United States, you are entitled to have the State of Texas notify your native country's consular representative here in the United States and to inform that representative that felony charges have been filed against you. Your country's consular officials are entitled to have access to you and to provide you consular assistance if you desire such assistance, whatever assistance that might be. If you want the State of Texas to notify your country's consular representative before you enter your plea, you must tell the Court now. Otherwise, you will waive or give up your right to have the State of Texas notify your country's consular representative.

**If a Sex Offender.** If you enter a plea of guilty/nolo contendere to a reportable sex offense, you will be required to comply with the registration requirements under Chapter 62 of the Texas Code of Criminal Procedure and to register as a sex offender at least once each year and every time you change your residence. Depending on the sex offense involved, your duty to register as a sex offender will end (1) on the tenth anniversary from the date that you are discharged from community supervision or released from prison, whichever is later, or (2) when you die. Failure to register as a sex offender when required to do so is a felony offense and may result in additional felony charges filed against you.

**If a Family Violence Offender.** If you enter a plea of guilty/nolo contendere to an offense of family violence defined by Section 71.004 of the Texas Family Code, including to a misdemeanor family violence offense, it is unlawful for you, *from now on*, to own, possess or transfer a firearm or any ammunition. If you do so, you may be prosecuted under either or both state or federal law.

**DNA Testing.** If you are convicted of any felony, you shall submit to DNA testing and you shall pay the cost thereof. If you are granted community supervision under a deferred adjudication judgment, the Court may require you to submit to DNA testing and to pay the cost thereof.

**Community Supervision.** If you filed a motion for community supervision (formerly known as probation), you must state under oath whether you have ever before been convicted of a felony or placed on felony community supervision or probation in this State, any other State, or by the United States; if you have a prior criminal record, then you must disclose any prior felony conviction or community supervision or probation. The Court will consider your motion for community supervision, but there is no guarantee that the Court will place you on community supervision; the Court will make its own decision whether to place you on community supervision, regardless of any recommendations made by the State or your attorney. Finally, the conditions of community supervision are not negotiable in any plea bargain agreement; the Court may impose any conditions upon you as warranted by the facts of the case and your circumstances, including confinement in a county jail, a state jail or prison, regardless of whether you previously agreed to those conditions.

**Deferred Adjudication.** If you request that the Court defer adjudication in your case and if the Court grants your request, the Court will find that the evidence substantiates your guilt for the offense to which you entered your plea, will defer an adjudication of guilt, and will place you on community supervision. If you successfully complete the period of community supervision, this cause will be dismissed and you will have no conviction. However, if you violate any condition of your community supervision, then you may be arrested and returned to this Court for a hearing limited to a determination whether to proceed with an adjudication of guilt on the charge that you entered your plea of guilty/nolo contendere. If the Court proceeds to adjudicate your guilt, then the Court may revoke your community supervision, find you guilty and sentence you up to the maximum term of imprisonment or confinement provided for the offense. But, if you later decide that you do not want to be on deferred adjudication, you may request the final adjudication of your case by filing a written motion within 30 days from the day you entered your plea; the Court shall then proceed to find you guilty and to determine the appropriate punishment for you, regardless of the recommendation of counsel.

**Period of Community Supervision.** Subject to extensions provided by Section 22 of the Code of Criminal Procedure, the maximum period of community supervision is (a) 5 years for (1) a third-degree felony under Title 7, Penal Code, other than Section 33.021(c), Penal Code; (2) a third-degree felony under Chapter 481, Health and Safety Code; and (3) a State Jail felony; and (b) 10 Years for any other felony. For a misdemeanor offense, the maximum period of community supervision is 2 years, subject to extensions.

**Period of Community Supervision in Sex Offense Cases.** In a case involving an offense of indecency with a child, sexual assault or aggravated sexual assault, at any time during the original period of community supervision, the Court may extend the period of supervision for an additional 10 Years for a maximum total of 20 Years, if it is shown that Defendant has not sufficiently demonstrated a commitment to avoid future criminal behavior and that the release of Defendant from community supervision would endanger the public.

**Jail Term as condition of Community Supervision.** If you are convicted of a DWI offense and are granted community supervision, you will be required to serve a *mandatory* jail term as a condition of community supervision; the jail term is determined by the offense to which you entered your plea. In any other case, the Court may order that you serve a jail term as a condition of community supervision. In any case, the jail term cannot exceed 180 days.

**Driver's License Suspension.** If you are convicted of a DWI offense or a felony offense under the Controlled Substances Act, your driver's license will be suspended, even if you are granted community supervision. The period of suspension depends on the offense to which you entered your plea.

**In-patient Treatment Placement.** If you are placed on community supervision for a DWI or a controlled substance offense and/or if the evidence shows that you have a history of substance abuse, the Court may, with or without your agreement, place you in an in-patient residential treatment facility, including a substance abuse felony punishment facility operated by the Texas Department of Criminal Justice. The term of the placement cannot exceed one year.

**If No Motion for Community Supervision.** If you do not file a motion for community supervision, then if you are found guilty, your punishment shall be a definite term of imprisonment or confinement and possibly a fine.

**Pre-Sentence Investigation.** The Court is required, in most cases, to direct a community supervisions officer to prepare and submit a pre-sentence investigation report to assist the Court in determining the appropriate punishment for you. If a pre-sentence investigation report was required in your case and you have not yet submitted to the pre-sentence investigation, your punishment hearing may be reset to a later date. If no pre-sentence investigation was required in your case and you are imprisoned or confined, the Court may order a post-sentence investigation in your case. If you are sent to prison, the pre-sentence or post-sentence investigation report will be sent to the prison and parole authorities.

**Parole.** If you are convicted and sent to prison, your eligibility for release on parole is generally determined by the grade of the offense of which you were convicted. Eligibility for parole does not guarantee that parole will be granted.

**No Parole:** If you are sentenced to life imprisonment without parole or for an offense under §21.02 or §22.021(f), Penal Code, you are not eligible for release on parole. You will have to serve the entire sentence, day for day, either for the rest of your life or for the term of the sentence imposed. §508.145(a), Govt.C.

**Capital Offense:** If you are sentenced to life imprisonment for a capital offense under §12.31(a)(1), Penal Code, you are not eligible for release on parole until the actual calendar time you have served, without consideration of good conduct time, equals 40 calendar years. You will have to serve 40 Years, day for day, before you may be considered for parole. §508.145(b), Govt.C.

**Repeat Sex Offender of Children:** If you are sentenced to life imprisonment for an offense under §12.42(c)(2), Penal Code (generally, a repeat sex offender of children), you are not eligible for release on parole until the actual calendar time you have served, without consideration of good conduct time, equals 35 calendar years. You will have to serve 35 Years, day for day, before you may be considered for parole. §508.145(c), Govt.C.

**Article 42A.054(a) (formerly “3g”) Offenses, Offenses with an affirmative Deadly Weapon Finding; Gang-related offenses:** If you are convicted of an offense listed Art. 42A.054(a), Tx.C.Cr.P., if you are convicted of Engaging in Organized Criminal Activities (§71.02 Penal Code) or Directing Activities of Street Gangs (§71.023 Penal Code), or if the Court makes an affirmative finding under Art. 42A.054(c) (a “deadly weapon” finding) (other than an offense under §21.02 or §22.021(f), Penal Code, or a capital felony; *see below*), you will not become eligible for parole until the actual time served equals one-half of the sentence imposed or 30 years, whichever is less, without consideration of any good conduct time earned. If you are sentenced to a term of less than four years, you must serve at least two years before you are eligible for parole. §508.145(d), Govt.C.

**Enhanced Drug Free Zone Offense:** If you are convicted of and sentenced for a Drug Free Zone offense for which the punishment is increased under §481.134, Health & Safety Code, you will not be eligible for release on parole until your actual calendar time served, without consideration of good conduct time, equals 5 years or the term to which you are sentenced, whichever is less. §508.145(e), Govt.C.

**Offenses other than those above:** If you are convicted of an offense that is not listed in Art. 42A.054(a), Tx.C.Cr.P., not an offense under §71.02 or §71.023 Penal Code, not an offense with a Drug Free Zone enhancement, or for which the Court has not made an affirmative deadly weapon finding, you will not become eligible for parole until the actual time served plus any good conduct time earned equals one-fourth of the sentence imposed or 15 years, whichever is less. §508.145(f), Govt.C.

**State Jail Offenses:** If you are convicted of and sentenced for a State Jail offense, you will not earn good conduct time on your sentence. There is no early release or parole on a State Jail sentence. You will have to serve the entire sentence, day for day.

**Filing an Appeal.** In this section, “sentencing date” means the date (1) the sentence is imposed, (2) the sentence is suspended and probated; or (3) deferred adjudication is granted. Except (1) in a plea bargain case or (2) if you waive your right of appeal, you may have a right to appeal. If you want to appeal, you must give notice of appeal within 30 days from the sentencing date. If you file a motion for new trial, you must give notice of appeal within 90 days from the sentencing date. If you want to file a motion for new trial, you must file the motion within 30 days of sentencing. The notice of appeal and the motion for new trial must be in writing and must be timely filed with the clerk of this Court. If you are indigent and unable to hire an attorney, at your request, the Court will appoint an attorney to represent you on appeal free of charge to you, and will also furnish you free of charge a record of the hearing. If you are now being represented by an appointed attorney, your attorney shall continue to represent you on appeal until appeals are exhausted or the attorney is relieved of his duties by the Court or replaced by other counsel. After the proceeding, the Court will sign the “Trial Court’s Certification of Defendant’s Right of Appeal,” which will give you additional admonishments about your right of appeal. You are required to sign your receipt of the certification and to provide contact information. You will be provided a copy of the appeal certification after you sign it. It is your responsibility to follow all appellate timetables provided by the Texas Code of Criminal Procedure and the Texas Rules of Appellate Procedure.

**Jail Time Credit.** Depending on the degree of the offense and the facts and circumstances of confinement, you may be entitled to mandatory credit of any jail confinement in your case.

**State Jail Felonies.** You are not entitled to mandatory credit of your pretrial jail confinement towards your sentence; however, in its discretion, the Court may give you such credit. If you are indigent and did not post bond to get out of jail and are sentenced to serve the maximum sentence of 2 years confinement in the State Jail, then you are entitled to credit for your pre-trial confinement.

**All Other Felonies.** You are entitled to mandatory credit of your pretrial confinement towards your sentence.

**SATF Term.** If you are granted community supervision and are placed in a substance abuse treatment facility [SATF] operated by the Texas Department of Criminal Justice or in another court-ordered residential program or facility, you are entitled to mandatory credit for any time served in such a facility, but only if you successfully complete the treatment program in that facility.

**Jail Term as a Condition.** If you are ordered to serve a jail term as a condition of community supervision, you are not entitled to credit for that term of confinement.

## COURT'S WRITTEN ADMONISHMENTS ON RANGE OF PUNISHMENT

Punishment for the offense that you are charged with and/or are entering a plea of guilty/nolo contendere to is defined below in the paragraphs marked [x]. If you have prior final felony convictions, your punishment may be increased as shown below. The Court will set your punishment within the applicable range of punishment. An imprisonment/confinement is in the Institutional Division of the Texas Department of Criminal Justice, except that it will be in the State Jail Felony Facility for a state jail felony offense or in the county jail for a misdemeanor offense or a State Jail Felony punished under Sec. 12.44(a) or prosecuted under Sec 12.44(b) of the Texas Penal Code. In addition to imprisonment or confinement, a fine may also be assessed.

### Regular Punishments under the Penal Code.

- Capital Felony, §12.31:** One guilty of a CAPITAL felony shall be punished by imprisonment for Life without parole or by death.
- Aggravated Sexual Assault of a Child, §22.021(f), committed on or after September 1, 2007:** One guilty of the offense of Aggravated Sexual Assault of a Child (1) younger than 6 years or (2) younger than 14 years and which offense was committed violently, shall be punished by imprisonment for Life or for any term of not more than 99 years or less than 25 years, and by a fine not to exceed \$10,000.
- First-Degree Felony, §12.32:** One guilty of a first-degree felony shall be punished by imprisonment for Life or for any term of not more than 99 years or less than 5 years, and by a fine not to exceed \$10,000.
- Second-Degree Felony Punishment, §12.33:** One guilty of a second-degree felony shall be punished by imprisonment for any term of not more than 20 years or less than 2 years, and by a fine not to exceed \$10,000.
- Third-Degree Felony Punishment, §12.34:** One guilty of a third-degree felony shall be punished by imprisonment for any term of not more than 10 years or less than 2 years, and by a fine not to exceed \$10,000.
- State Jail Felony Punishment, §12.35 (a) and (b):** One guilty of a STATE JAIL felony shall be punished by confinement in a State Jail for any term of not more than 2 years or less than 180 days, and by a fine not to exceed \$10,000. If you have not previously been convicted of any felony, the Court may place you on community supervision; if you do have a prior felony conviction, the Court may place you on community supervision or sentence you directly to the State Jail. The requirement that the Court shall place a person charged with a State Jail offense who has not previously been convicted of a felony does not apply if the person possessed more than five abuse units of the controlled substance under §481.1151(b), Health & Safety Code, or possessed more than one pound of marihuana under §481.121(b)(3), Health & Safety Code.
- Aggravated State Jail Felony Punishment, §12.35(c):** One guilty of a STATE JAIL felony shall be punished for a third-degree if: 1) a deadly weapon was used or exhibited during the commission of the offense or during immediate flight therefrom, and the person used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited; or 2) the person has previously been finally convicted (a) of continuous sexual abuse of a young child or children; (b) of murder, capital murder, indecency with a child, aggravated kidnapping, aggravated sexual assault, aggravated robbery, sexual assault, sexual performance by a child, first-degree felony injury to a child, or certain controlled substance offenses under §481.134 and §481.140, Health & Safety Code; or (c) of an offense for which the judgment contains an affirmative finding that a deadly weapon was used or exhibited during the commission of the offense or during immediate flight therefrom, and the person used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited.
- Class A Misdemeanor, §12.21:** One guilty of a CLASS A misdemeanor shall be punished by a fine not to exceed \$4,000; by confinement in jail for any term not to exceed one year; or by both such fine and confinement.
- Class B Misdemeanor, §12.22:** One guilty of a CLASS B misdemeanor shall be punished by a fine not to exceed \$2,000; by confinement in jail for any term not to exceed 180 days; or by both such fine and confinement.

### Miscellaneous Punishment under Other Law

One guilty of the offense of \_\_\_\_\_ shall be punished by a term of confinement in \_\_\_\_\_ for not more than \_\_\_\_\_ days/months/years or less than \_\_\_\_\_ days/months/years, and by a fine not to exceed \$ \_\_\_\_\_.

### Enhanced Punishments under the Penal Code

If you have previously been convicted of a felony, your punishment may be enhanced, that is, increased, as follows:

- Repeat Offender for State Jail Felony Conviction, §12.42(a):**
- A person found guilty of a state jail felony who has been convicted of two state jail felonies shall be punished for a third-degree felony.
- A person found guilty of a state jail felony under §12.35(a), who has been convicted of two felonies, in which the second previous felony conviction is for an offense that occurred subsequent to the first previous conviction having become final, shall be punished for a second-degree felony.
- A person found guilty of a state jail felony under §12.35(c), who has been convicted once before of a felony shall be punished for a second-degree felony.

**Repeat Offender for Third-Degree Felony Conviction, §12.42(a)(3):** A person found guilty of a third-degree felony who has been once before convicted of any felony shall be punished for a second-degree felony.

**Repeat Offender for Second-Degree Felony Conviction, §12.42(b):** A person found guilty of second-degree felony who has been once before convicted of any felony shall be punished for a first-degree felony.

**Repeat Offender for First-Degree Felony Conviction, §12.42(c)(1):** A person found guilty of a first-degree felony who has been once before convicted of any felony shall be punished by imprisonment for Life or for any term of not more than 99 years or less than 15 years, and by a fine not to exceed \$10,000.

**Repeat Sex Offender, §12.42 (c)(2):** A person found guilty of sexual assault; aggravated sexual assault; aggravated kidnapping with the intent to violate or abuse the victim sexually; burglary of a habitation with intent to commit sexual assault, aggravated sexual assault, aggravated kidnapping with the intent to violate or abuse the victim sexually, or indecency with a child; and who has been previously convicted of any of the following felony offenses: sexual performance by a child; possession or promotion of child pornography; indecency with a child; aggravated sexual assault; prohibited sexual conduct; aggravated kidnapping with the intent to violate or abuse the victim sexually; or, burglary of a habitation with intent to commit indecency with a child, sexual assault, aggravated sexual assault, prohibited sexual conduct, or aggravated kidnapping with the intent to violate or abuse the victim sexually; or of any offense under the laws of another State containing elements that are substantially similar to the elements of any offense listed above, shall be punished by imprisonment for Life.

**Repeat Sex Offender Capital Felony, §12.42(c)(3), committed on or after September 1, 2007:** A person found guilty of aggravated sexual assault of a child that is otherwise punishable under §22.021(f), Penal Code, shall be punished for a CAPITAL felony, if it is shown that the person has previously been convicted of aggravated sexual assault of a child and the child was (1) younger than 6 years of age or (2) younger than 14 years of age and the person committed the offense violently, or if the person has previously been convicted of an offense that was committed under the laws of another state that contains elements that are substantially similar to this offense. Upon conviction, the person shall be sentenced to death or by imprisonment for Life without parole.

**Repeat Continuous Sexual Abuse of Young Child or Children Felony, §12.42(c)(4), committed on or after September 1, 2007:** A person found guilty of continuous sexual abuse of child or children under §21.02, Penal Code, shall be punished by Life without parole if the person has previously been convicted of a similar offense under §21.02, Penal Code, or of a substantially similar offense under the laws of another State.

**Habitual Felony Offender, §12.42 (d):** Except as provided by §12.42(c)(2), Penal Code, a person found guilty of a felony other than a state jail felony punishable under §12.35(a), Penal Code, who has previously been finally convicted of two felony offenses, in which the second previous felony conviction was for an offense that occurred subsequent to the first previous conviction having become final, shall be punished by imprisonment for Life or for any term of not more than 99 years or less than 25 years.

**Other Punishments under the Health & Safety Code**  
*(for offenses not designated for a specific degree or class)*

**Aggravated Controlled Substance Felony Punishment:** One guilty of an aggravated felony for an offense stated in §§ 481.116(e), 481.117(e), 481.118(e), or 481.121(b)(6), Health and Safety Code, shall be punished by imprisonment for Life or for any term of not more than 99 years or less than 5 years, and by a fine not to exceed \$50,000.

**Aggravated Controlled Substance Felony Punishment:** One guilty of an aggravated felony for an offense stated in §§ 481.112(e), 481.113(e), 481.114(e), 481.115(f), or 481.120(b)(6) Health and Safety Code, shall be punished by imprisonment for Life or for any term of not more than 99 years or less than 10 years, and by a fine not to exceed \$100,000.

**Aggravated Controlled Substance Felony Punishment:** One guilty of an aggravated felony for an offense stated in § 481.112(f), Health and Safety Code, shall be punished by imprisonment for Life or for any term of not more than 99 years or less than 15 years, and by a fine not to exceed \$250,000.

**Punishment for Drug Offense in Drug-Free Zones:** One guilty of a drug offense committed in a drug-free zone shall be punished as provided in §481.134, Health and Safety Code. The punishment range for an offense committed in a drug-free zone is increased by one degree or by increasing the minimum confinement or imprisonment and the maximum fine. Community supervision and/or deferred adjudication may not be applicable for certain offenses committed in a drug-free zone. Punishment that is increased for a conviction for an offense committed in a drug free zone may not run concurrently with punishment for a conviction under any other statute.

*You yourself must read the foregoing admonishments and the admonishments on the range of punishment; if you cannot read, then have your attorney or the language interpreter (if necessary) read the document to you. If you do not understand a particular item or if you have questions on anything stated above, you must let me know or ask those questions during the hearing. Do not sign any documents unless you yourself have read them or someone else read them to you, word for word, and unless you fully understand what is contained in the documents. After the hearing, it will be too late to complain about any matter that could have been taken care of at the hearing.*

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JUDGE PRESIDING

**DEFENDANT’S STATEMENT UNDERSTANDING ADMONISHMENTS**

*[Place your initials next to any paragraph if the “ \_\_\_\_\_ ” next to the paragraph has a “/” before it and/or applies to you.]*

Defendant, being duly sworn, in open court states Defendant’s understanding as follows:

/ \_\_\_\_\_ 1) I **understand and can read** the English language. I have personally read the documents required for this hearing. - **OR** - \_\_\_\_\_ 2) Although I **cannot read**, I do understand and speak the English language. All of the documents required for this hearing were read to me by \_\_\_\_\_. - **OR** - \_\_\_\_\_ 3) I **do not understand, speak or write** the English language. All of the documents required for this hearing were read to me in my native language by \_\_\_\_\_.

/ \_\_\_\_\_ I understand the Court’s written admonishments and explanation of my constitutional and statutory rights.

/ \_\_\_\_\_ I am the same person who is charged in this cause with the offense as stated in the Court’s written admonishments. I now enter my plea of guilty/nolo contendere to that offense. I enter my plea voluntarily and without force, threats, persuasion, fear or promise.

\_\_\_\_\_ 1) I enter my **plea of guilty** because I am in fact guilty of said offense. - **OR** - \_\_\_\_\_ 2) I enter my **plea of nolo contendere** or no contest because, although I do not admit criminal responsibility, I will not contest or oppose the charges against me. I do not object to the admission of any evidence offered by the State against me. I stipulate that the State’s witnesses would testify as shown in the State’s evidence, regardless of whether I agree with such evidence.

/ \_\_\_\_\_ I have had sufficient time and opportunity to consult with my lawyer and have discussed with my attorney all relevant facts and the law applicable in this case. I am satisfied with the representation my lawyer has given me, and I have no complaints against my lawyer or objections to my lawyer representing me.

/ \_\_\_\_\_ I am mentally competent to enter a plea in this case. I am sane now and I know what I am doing in court today. As far as I know, I was sane and I knew what I was doing on the date the offense was committed.

/ \_\_\_\_\_ 1) I will enter a plea of guilty or nolo contendere **WITHOUT a plea bargain agreement**. Because I entered such a plea without a plea bargain agreement, I understand that my right to appeal may be extremely limited. - **OR** - \_\_\_\_\_ 2) With the assistance of my lawyer, I have entered into a **plea bargain agreement** with the State. My lawyer has explained the plea bargain to me. I understand the plea bargain and I agree to it. I understand that if the Court follows the plea bargain, I am not allowed to appeal the judgment of the Court unless the Court gives me permission to appeal or except on those matters raised by pretrial motion and ruled upon by the Court. Nevertheless, I want the Court to accept my plea and to follow the plea bargain agreement.

/ \_\_\_\_\_ I waive or give up and/or withdraw all pretrial motions filed in this cause, except those motions previously ruled upon by the Court.

/ \_\_\_\_\_ 1) I **HAVE NOT filed a motion for community supervision**. I know and understand that, if I am found guilty, I will be punished by imprisonment or confinement for a definite term and that I may be fined. - **OR** - \_\_\_\_\_ 2) I **HAVE filed a motion for community supervision** (formerly known as probation). I understand that the Court is not required to place me on community supervision. I understand that the conditions of community supervision are not negotiable in plea bargaining, and that the Court can impose conditions of community supervision upon me (such as confinement in a county jail or a state jail or placement in a corrections or treatment or other residential facility) that the Court feels may be appropriate regardless of whether I agree. I further understand that, if placed on community supervision, I am required to comply with the conditions of community supervision as ordered by the Court.

\_\_\_\_\_ I have **requested that the Court defer** further proceedings on my case without entering an adjudication of guilt and place me on community supervision. I understand that if I violate a condition of my community supervision, I may be arrested, detained in jail and returned to a hearing limited to a determination by the Court of whether it proceeds with an adjudication of guilt on the charge that I entered my plea of guilty or nolo contendere. If the Court proceeds to an adjudication of guilt, I understand that the Court may revoke my community supervision, find me guilty and sentence me up to the maximum term of imprisonment or confinement for the offense to which I entered my plea. I further understand that, if I decide that I do not want to be on deferred adjudication, I may request the final adjudication of my case by filing a written motion within 30 days from the day I entered my plea, in which event the Court shall proceed to find me guilty and then determine the appropriate punishment for me, regardless of the agreed recommendation of counsel for a particular punishment.

/ \_\_\_\_\_ I understand that the Court may direct that a pre-sentence investigation report be made to assist the Court in assessing punishment. If no pre-sentence investigation was required in my case, I understand that the Court may order a post-sentence investigation report be prepared and filed.

/ \_\_\_\_\_ 1) I am a **CITIZEN** of the United States of America. - **OR** - \_\_\_\_\_ 2) I am **NOT A CITIZEN** of the United States of America. I fully acknowledge and understand that, because I am not a citizen of the United States, a plea of guilty or nolo contendere for the offense in my case may result in my deportation, the exclusion from admission to this country, or the denial of naturalization under federal law. I understand that this Court has no authority to bind the United States government regarding my immigrant status in this country. I understand that I am entitled to have the State of Texas notify my country’s consular representative here in the United States and to inform that representative that felony charges have been filed against me; and that my country’s consular officials are entitled to have access to me and to provide me consular assistance if I desire such assistance, whatever assistance that might be. I do not want, and I hereby waive and give up my right, to have the State of Texas notify my country’s consular representative on my behalf; nor do I want any consular assistance on these matters.

\_\_\_\_\_ I understand that, because I have pled guilty/nolo contendere to a **reportable sex offense**, I will be required to register as a sex offender with the local law enforcement authority. I understand that I must register every time I establish a new residence or change my address. I understand that if I fail to timely register as a sex offender, additional felony charges may be filed against me. *I understand that I must register as a sex offender within seven days from today.* Defendant will be required to meet the sex offender registration requirements of Chapter 62 of the Code of Criminal Procedure. Under the law, Defendant must register and under various circumstances, thereafter periodically verify registration information or enter a new registration with a local law enforcement agency in any city or county where Defendant resides, intends to reside, moves, visits or works. A Defendant is subject to the program upon being convicted, adjudicated, or placed on deferred adjudication for one of the following offenses: Indecency with a child; Compelling prostitution; Sexual assault; Aggravated sexual assault; Prohibited sexual conduct; Sexual performance by a child; Possession of child pornography; Aggravated kidnapping (with intent to violate or abuse the victim sexually); Burglary of a habitation (with intent to commit a felony sexual offense); a second conviction for indecent exposure; Unlawful restraint, kidnapping, or aggravated kidnapping if the judgement or order contains an affirmative finding that the victim was a child under 17 years of age; an attempt, conspiracy, or solicitation to commit any of the above offenses; any substantially similar offense under the law of another State, Federal law, or the Uniform Code of Military Justice; or any offense resulting in a condition of parole, release to mandatory supervision, or community supervision requiring registration as a sex offender. The duty of a Defendant to register as a sex offender generally does not expire until 10 years after defendant's sentence of community supervision ends. For certain offenses the duty to register is for the remainder of Defendant's life. Those offenses include indecency with a child (by contact), indecency with a child (by exposure) if Defendant already has, or subsequently receives another reportable sex offense conviction, compelling prostitution (of a minor), sexual assault, aggravated sexual assault, prohibited sexual conduct, sexual performance by a child, possession or promotion of child pornography, aggravated kidnapping (with an affirmative finding that the victim was younger than 17 years of age), if Defendant already has, or subsequently receives another reportable sex offense conviction, or any substantially similar offense under the laws of another State, Federal law, or Uniform Code of Military Justice. Defendant understands that the sex offender registration laws include many details other than those listed in the admonitions, are subject to change, and may be applied retroactively. The failure to comply with the current or future laws is a criminal offense. Before pleading guilty or *nolo contendere*, Defendant has received the above admonitions. In addition, Defendant's attorney has explained these admonitions to Defendant and advised Defendant in general regarding the registration requirements under Chapter 62 of the Code of Criminal Procedure. Defendant hereby states that the plea of guilty or *nolo contendere* is not influenced by any advice or information delivered by the Court, Defendant's attorney, or any other person regarding the sex offender registration requirements. Defendant would have pled guilty or *nolo contendere* regardless of the requirements.

\_\_\_\_\_ I understand that, because I have entered a plea of guilty or nolo contendere to an offense of family violence, including a misdemeanor **family violence offense**, it will be unlawful for me to possess or transfer a firearm or ammunition, and that if I do so, I may be prosecuted under either or both state or federal law for possessing a firearm.

\_\_\_\_\_ I understand that, if I am granted community supervision in a **DWI case**, I must serve a mandatory minimum jail term as a condition of community supervision. I understand that in any other case, the Court may order that I serve a jail term not to exceed 180 days in the county jail as a condition of community supervision.

\_\_\_\_\_ I understand that, if I am convicted of a **DWI or a controlled substance offense**, my driver's license, if I have one, will be suspended for a period determined by the offense, even if I am granted community supervision. I understand that, if I do not now have a driver's license, I may be denied the privilege of obtaining a driver's license for at least 180 days. In addition, I understand that, if I am convicted of a DWI or a controlled substance offense and/or if the evidence shows that I have a history of substance abuse, I may be placed in an in-patient treatment facility whether I agree to it or not.

/ \_\_\_\_\_ I understand that if I am convicted of any felony, I will be required to submit to DNA testing and to pay the cost thereof. If I am granted community supervision under a deferred adjudication judgment, I understand that the Court may require me to submit to DNA testing and to pay the cost thereof.

/ \_\_\_\_\_ I understand that my right of appeal may be affected by my plea. I understand that if the Court accepts and follows the plea bargain agreement, I will waive or give up my right of appeal, except to those matters raised by written motion ruled upon by the Court, unless the Court grants me permission to appeal. I understand that, if I request permission to appeal, the Court, in all likelihood, will deny me permission to appeal. I further understand that if I enter my plea without a plea bargain agreement and the Court makes a sentencing decision that I do not like, my right to appeal may be extremely limited.

/ \_\_\_\_\_ I understand that if I am indigent and unable to hire a lawyer, the Court will appoint a lawyer to represent me on appeal free of charge to me and will also furnish me free of charge a record of these proceedings. I understand that if I am now being represented by an appointed attorney, that attorney shall continue to represent me on appeal until my direct appeals are exhausted or the attorney is relieved of his duties by the Court or replaced by other counsel.

/ \_\_\_\_\_ I understand that, after the proceedings, I will be required to sign the "Trial Court's Certification of Defendant's Right of Appeal." I will receive a copy of the Certificate after I sign it. I understand that it is my responsibility to follow all requirements for appeal and all appellate timetables as set by the Texas Code Criminal Procedure and the Texas Rules of Appellate Procedure.

/ \_\_\_\_\_ I understand the admonishments given to me in writing by the Court (including those concerning parole), I know the range of punishment applicable in this cause, and I am aware of the consequences of my entering a plea of guilty/nolo contendere.

\_\_\_\_\_  
Defendant

## DEFENDANT'S WAIVER OF RIGHTS

With the advice and consent of my lawyer, and as shown by my initials to each applicable paragraph, I hereby file my Waiver of Rights prior to the entry of my plea of guilty or nolo contendere as follows:

\_\_\_\_\_ **Waiver of Language Interpreter:** I understand and speak the English language. I understand that if I do not fully speak or understand the English language, I have the right to have an interpreter present to translate all of the proceedings and testimony to me in a language that I understand. I hereby waive the right to have a certified language interpreter.

\_\_\_\_\_ **Waiver of Indictment:** I understand that I am charged by a felony Information. I understand that I have the right to demand that my case be taken to the Grand Jury for its review, and that the Grand Jury may return an indictment against me charging me with an offense or that it may return a no-bill in my favor, resulting in the dismissal of charges against me. I hereby waive my right to be accused by indictment of any offense.

\_\_\_\_\_ **Consent to Venue:** I understand that a criminal case is ordinarily prosecuted in the county in which the offense occurred. I hereby agree to the prosecution and disposition of my case in a county other than that in which the offense occurred, and hereby consent to venue as provided by Chapter 13, Texas Code of Criminal Procedure.

\_\_\_\_\_ **Waiver of Arraignment:** I understand my right to formal arraignment and to have the indictment or information read to me in open Court. I hereby waive my formal arraignment and further waive the reading of the indictment or information.

\_\_\_\_\_ **Waiver of Jury Trial:** I understand my right to a jury trial. I know what a jury trial is. I understand that I can demand that a jury determine whether I am guilty or not guilty, and/or that the jury determine punishment. I now waive my right to a jury trial on all issues.

\_\_\_\_\_ **Waiver of 10-day Preparation:** I understand that I have the right that my court-appointed lawyer have at least 10 days after appointment to prepare for trial or for today's proceedings. In the event my lawyer was appointed less than 10 days from today, I hereby waive the 10-day preparation period.

\_\_\_\_\_ **Waiver of Confrontation of Witnesses:** I understand that I have the right to the appearance, confrontation and cross-examination of witnesses in this cause. I hereby waive my right to the appearance, confrontation, and cross-examination of the witnesses against me. I agree that the testimony of the witnesses may be read into the record by the State's attorney; that such testimony would be the same as if the witnesses were present in Court and were testifying under oath; and that any testimony or evidence may be introduced by affidavit, written statements of witnesses and any other documents offered by the State.

\_\_\_\_\_ **Withdrawal of Pretrial Motions and/or Rulings on Pretrial Motions:** In the event that my lawyer filed pretrial motions on my behalf, I hereby withdraw all such motions, except those motions previously ruled upon by the Court. If the Court ruled on any pretrial motions filed on my behalf, I hereby waive my right to appeal any such rulings.

\_\_\_\_\_ **Waiver of Appeal:** I understand that, whether I plead guilty or nolo contendere with or without a plea bargain agreement, I may have a limited right to appeal. Regardless of the result of this proceeding, *I hereby waive any right of appeal that I may have in this cause, including notice of appeal and motions for new trial. Withdraw all pre-trial motions.*

\_\_\_\_\_ **Waiver of Presentence Investigation Report:** I understand that I have the right to have the probation department conduct a presentence investigation (the purpose of which is to obtain information useful to the court in determining the appropriate sentence) and present a report for presentation to the court prior to the imposition of any sentence. *I hereby waive any right to a Presentence Investigation Report.*

\_\_\_\_\_ **Waiver of In Court Proceeding / Consent to Video-Conference:** I understand that in lieu of appearing in court (*in person*) in this case, I (and/or my attorney) are hereby waiving any right to same and consenting to the proceedings being conducted *via* videoconferencing.

\_\_\_\_\_ **Waiver of Service and Notice of Bill of Costs:** Defendant hereby acknowledges and waives formal service and notice of the total court costs and/or Bill of Costs associated with the prosecution of the above-referenced cause number as may be required pursuant to **§42.16 and Chapter 103 of the Code of Criminal Procedure**. Defendant waives service and notice of the total court costs accrued, or which may accrue in this matter, **whether placed on probation or sentenced to the Texas Department of Criminal Justice or State Jail Facility**. Notice is hereby provided that the Bill of Costs will include all court costs, and other reasonable and necessary expenses incurred in the prosecution of the above references case. Should I be placed on probation, I acknowledge that the Bill of Costs will become part of my payment obligation associated with the conditions of my probation.

\_\_\_\_\_ **Waiver of Original Signature:** I understand that I have the right to personally sign and/or initial these plea documents. I do not desire to do so and I have given my counsel the right to do so for me. I hereby acknowledge that any signature and/or initial (whether by actual signature/initial or/and electronic form thereof) contained within this document and/or the *Trial Court's Certification of Defendant's Right to Appeal* are made with my permission after being fully explained to my satisfaction and understanding.

\_\_\_\_\_ **Waiver of Fines and Costs Ability to Pay Inquiry.** I hereby waive my right to have the trial court inquire on the record at the time of sentencing whether or not I have sufficient resources or income to immediately pay all or part of the fine and costs assessed against me (including attorney's fees, probation fees and any other CSCD fees), and I affirm that I do have sufficient resources or income to pay the fine I have agreed to and the costs as I understand them to be.

\_\_\_\_\_  
Defendant



**CLERK’S CERTIFICATE**

On \_\_\_\_\_, Defendant stated to me under oath that Defendant had read all of this document or that this document had been read to Defendant in Defendant’s native language; that Defendant understands all of the statements contained therein; that Defendant freely signed this document; and that Defendant’s signatures appearing on the document were Defendant’s signatures and/or those of Defendant’s attorney, whom Defendant authorized to sign or notate same.

ANNE LORENTZEN, DISTRICT CLERK

By \_\_\_\_\_, Deputy Clerk

**COUNSEL’S CERTIFICATE OF CONSULTATION AND CONSENT TO WAIVER**

I, \_\_\_\_\_, Bar No. \_\_\_\_\_, attorney for Defendant herein, hereby certify that I have read and explained all of the Court’s written admonishments to Defendant and the waiver of rights. Defendant understands and can read the English language; if Defendant cannot read but does understand English, I have had the document read to Defendant in my presence; if Defendant does not understand English, I have had the certified language interpreter orally translate and interpret the document to Defendant in my presence in the language of Defendant’s understanding. In my opinion, Defendant is mentally competent today and was sane at the time of the commission of the alleged violations. Defendant understands the nature of the charges against Defendant and of the proceedings herein. We have discussed the facts of the case and the applicable law. Defendant’s plea of true/nolo contendere is made freely and voluntarily, knowingly and intelligently, and is done with my advice and consent. Defendant is fully aware of the consequences of Defendant’s plea, knows the range of punishment, and understands all of the admonishments given to Defendant by the Court in writing. Defendant understands that an agreed recommendation between the State and Defendant is not binding on the Court and that the Court is free to impose its own judgment on the case after hearing the evidence and argument of counsel. If Defendant is not a citizen of the United States, I have counseled him about the consequences of entering a plea of true or no/nolo contendere in this case and about his right to notify the consular representative of Defendant’s native country in the United States. I agree and consent to Defendant’s waiver of rights. In addition, the undersigned hereby verifies that Defendant was explained the right to personally sign and/or initial these plea documents and that after being fully explained to Defendant’s satisfaction and understanding, Defendant agreed to waive such right and have the undersigned sign and/or initial (whether by actual signature/initial or/and electronic form thereof) signed by my attorney and/or electronically added) this document and/or the *Trial Court’s Certification of Defendant’s Right to Appeal*.

\_\_\_\_\_  
Attorney for Defendant

**STATE’S CONSENT**

I, \_\_\_\_\_, Bar No. \_\_\_\_\_, Attorney for the State of Texas, hereby consent to Defendant’s waiver of a jury and agree to waive a jury in this cause.

\_\_\_\_\_  
Attorney for the State

**ORDER APPROVING DEFENDANT’S WRITTEN STATEMENTS AND WAIVERS**

Prior to the hearing on Defendant’s plea of guilty or nolo contendere, the Court tendered to Defendant the document containing the “Court’s Written Admonishments to Defendant on Defendant’s Plea of Guilty or Nolo Contendere,” the “Court’s Written Admonishments on Range of Punishment,” and “Defendant’s Statement Understanding Admonishments,” and “Defendant’s Waiver of Rights.”

During the hearing, the Court received and reviewed Defendant’s sworn statement that Defendant understands the Court’s written admonishments and waiver of rights as stated above. The Court finds that said statement and waiver and the attorney’s certificate are in due and proper form; that Defendant fully understands all of the admonishments given to Defendant in writing; that Defendant is aware of the range of punishment applicable in this case; that Defendant is mentally competent and was sane at the time of the commission of the offense; that Defendant’s plea is made freely and voluntarily, knowingly and intelligently, and made with the advice and consent of his attorney; that Defendant understands Defendant’s rights; and that Defendant has freely and voluntarily, and knowingly and intelligently waived all of his rights.

**IT IS ORDERED** that Defendant’s Sworn Statement and Waiver of Rights be and are hereby **APPROVED** and **ACCEPTED** and made a part of the record in this cause.

SIGNED on \_\_\_\_\_.

\_\_\_\_\_  
JUDGE PRESIDING



IN THE \_\_\_\_\_<sup>TH</sup> JUDICIAL DISTRICT COURT
NUECES COUNTY, TEXAS

THE STATE OF TEXAS
Vs.

No. \_\_\_\_\_

DEFENDANT'S MOTION FOR COMMUNITY SUPERVISION

Defendant herein hereby submits Defendant's Motion for Community Supervision as follows by placing Defendant's initials next to any paragraph if the "\_\_\_\_\_" next to the paragraph has a "/" before it and/or applies to you:

/ \_\_\_\_\_ I have never been convicted of a felony or placed on felony probation or community supervision in this State, in any other State or by the United States. - OR - \_\_\_\_\_ I have been convicted and/or placed on the following felony probation or community supervision for the following offenses:

\_\_\_\_\_
\_\_\_\_\_

\_\_\_\_\_ I request that the Court defer further proceedings in my case and not enter a finding or judgment of guilt. If the Court grants my request, I understand that I will be on community supervision without a finding of guilty. I understand that if I violate any condition of my community supervision, I may be arrested and returned to this Court for a hearing, and the Court may revoke my community supervision, find me guilty and sentence me up to the maximum term of punishment for the offense to which I entered my plea. I further understand that, if within the next 30 days, I do not wish to be on deferred adjudication, I may request the final adjudication of my case by filing a written motion within 30 days from the day I entered my plea, in which event the Court may proceed to find me guilty and then determine the appropriate punishment for me.

\_\_\_\_\_ I demand a jury trial on the issue of punishment and request the Court to submit the issue of community supervision to the Jury.

\_\_\_\_\_ I understand that if I am granted community supervision, the Court will impose upon me such conditions of community supervision that the Court may deem reasonable and appropriate for me, whether I agree to such conditions or not.

/ \_\_\_\_\_ I am hereby notified that if the court determines I satisfactorily fulfill the conditions of my community supervision (hereinafter "probation"), upon expiration of such probation, if certain requirements are met, I may [CONVICTIONS OF CERTAIN OFFENSES INVOLVING THE USE OF ALCOHOL (SECTIONS 49.04-49.08, PENAL CODE), AN OFFENSE REQUIRING REGISTRATION AS A SEX OFFENDER, OR A FELONY DESCRIBED BY ARTICLE 42A.054, CODE OF CRIMINAL PROCEDURE, ARE INELIGIBLE] be able to receive judicial clemency from the court. Under Article 42A.701, Code of Criminal Procedure, the Court may use its discretion to exercise judicial clemency in terminating my probation if: 1) the court determines that I have satisfactorily fulfilled the conditions of my probation; 2) the term of my probation has expired, including any amended or modified term of my probation; 3) the court discharges me from probation; and 4) the court sets aside the verdict in my case or permits me to withdraw my plea. If those requirements are met, the Court is authorized to dismiss the accusation, complaint, information, or indictment against me and to release me from all penalties and disabilities resulting from my conviction or plea. However, if the court releases me from the consequences of my conviction or plea, if I am subsequently convicted of another offense, my conviction or plea will be made known to the judge, and if I am an applicant for or holder of a license issued by the Department of Family and Protective Services (hereinafter "Department"), the Department may consider that I previously received probation as a factor in issuing, renewing, denying, or revoking a license.

\_\_\_\_\_
Defendant

Signed and sworn to before me on \_\_\_\_\_.

ANNE LORENTZEN, DISTRICT CLERK, by \_\_\_\_\_, Deputy District Clerk