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(Name)

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(Date of Birth)

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(Email)

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(Address – include PO Box)

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(City, State, Zip)

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(Telephone)

**RIGHTS, INSTRUCTION  
AND WAIVER**

**AND RIGHT TO COUNSEL**

**IN THE EMERY COUNTY JUSTICE COURT**

**RIGHTS, INSTRUCTION AND WAIVER**

1. **PLEAS:** You may plead: a) not guilty; b) not guilty by reason of insanity; c) guilty with a mental illness at the time of the offense; d) guilty; or e) with the court's approval, no contest (a no-contest plea means you do not challenge the charge; it is still a conviction).

2. **RIGHTS:**

1) You have the right to be represented by an attorney. The court will appoint an attorney at no cost to you if: a) you cannot afford an attorney; and b) there is the possibility of a jail sentence for the offense. Later, you may have to pay for the appointed attorney's service if the court determines you are able to do so.

2) You have the right to represent yourself. If you do so, the court cannot advise you on how to handle your case, and you will be required to comply with technical legal rules. There may be disadvantages to proceeding without an attorney. For any future hearing, you must: a) represent yourself; b) hire an attorney; or c) if you cannot afford an attorney, request a court-appointed attorney by filing an affidavit at least 10 days before the proceeding. Failure to exercise option b or c will be treated as an implied waiver of your right to counsel.

3) You have the right to a speedy public trial before an impartial jury. If you want a jury trial, you must make a written demand at least 10 days prior to trial. You are not entitled to a jury trial if you are charged only with an infraction.

4) You have the right to confront and cross-examine the prosecution witnesses in open court.

5) You have the right to call witnesses and compel by subpoena their attendance and testimony. If you cannot afford to pay for the attendance of witnesses, the prosecution will pay those costs.

6) You have the right to testify on your behalf. Any statement you make may be used against you. You may refuse to testify, and no one can make you testify or give evidence against yourself. Your refusal to testify cannot be held against you.

7) You are presumed innocent until: a) you plead guilty or no contest; or b) the prosecution proves you guilty. The prosecution has the burden of proving each of the elements of the crime beyond a reasonable doubt. A jury verdict must be unanimous.

8) You have the right to bail. If you post bail, you will be released on: a) the condition you appear in court for future proceedings; and b) any other conditions the court imposes. Bail may be modified on proper motion, notice, and findings.

If you plead guilty or no contest, these rights are waived, and your plea constitutes an admission of all the elements of the crime.

**3. WITHDRAWAL OF PLEA / RIGHT TO APPEAL:** A motion to withdraw a guilty or no-contest plea must be made before you are sentenced or within 30 days of a plea held in abeyance. To withdraw your plea, you must show it was not knowingly and voluntarily made. The right to appeal is limited. If you choose to appeal, you must file a written Notice of Appeal within 30 days of the sentence or order from which you are appealing.

**4. SENTENCING:** Sentencing recommendations are not binding on the court. The court may order the sentence to run consecutively (one after the other) with the charges in this case and with any other case.

**5. PENALTIES (MINIMUM / MAXIMUM SENTENCES):** Class B Misdemeanor (0 days to 6 months jail, \$0 to \$1,950 fines and surcharges, plus interest); Class C Misdemeanor (0 days to 90 days jail, \$0 to \$1060 fines and surcharges, plus interest); Infraction (no jail, \$0 to \$1060 fines and surcharges, plus interest).

**6. CITIZENSHIP:** If you are not a citizen of the United States, a criminal conviction may result in deportation

**I state that I have fully and completely read this rights, instructions, and waiver document, and that I understand it. (If you do not understand any of this document, you should appear before the judge in open court before signing it).** *I understand the charge(s) and penalties. Any plea I enter is voluntary and of my own free will and choice. No force, threats, or unlawful influence have been made to get me to plead.*

\_\_\_\_\_  
Signature of Defendant

\_\_\_\_\_  
Date (MM/DD/YYYY)

**RIGHT TO COUNSEL**  
**(COUNSEL MEANS ATTORNEY IN THIS FORM)**

**YOU MUST MARK ONE OF THE FOUR (4) OPTIONS ON THE SECOND PAGE.**

**THE COURT CANNOT DECIDE THIS FOR YOU OR TELL YOU WHICH OPTION TO MARK.**

**1. The Right to an Attorney.**

You have been charged with the criminal offense(s) listed in the citation or information. You have the constitutional right to be represented by an attorney throughout all proceedings. If the offense is one for which the court may impose jail time – even suspended jail time – and you cannot afford an attorney, the court will appoint an attorney to represent you. You also have the right to represent yourself. At the end of this document you will choose how you would like to proceed at this time.

**2. If You Cannot Afford an Attorney.**

If the charges include the potential for a jail sentence (i.e., any of the charges is a Class A, B, or C misdemeanor or felony charge) and you do not have enough income or assets to hire your own attorney, the court will appoint an attorney to represent you, unless you choose to represent yourself. Let the court know if you would like to determine whether you qualify for a court-appointed attorney.

If you do not meet the eligibility guidelines to have a court-appointed attorney, you still have the right to an attorney, but the attorney must then be retained at your own expense.

**3. The Right to Represent Yourself.**

You also have the constitutional right to represent yourself and to proceed without an attorney. Before choosing this option you should consider the following risks and responsibilities associated with self-representation:

- Criminal defense is a highly specialized and technical area of the law.
- A criminal conviction may result in consequences consisting of financial penalties and jail time.
- There may be factual, legal, or other defenses to the charge(s) that an attorney may be able to discover and explain to you.
- There may be issues related to the conduct of trial or the entering of a guilty plea that you may not know and it would be your attorney's responsibility to be aware of those issues and to properly address them before the court. The court cannot advise you on how to proceed with or try your case.
- There may be collateral consequences based on a conviction or guilty plea, such as increased penalties for subsequent offenses, suspension of your driver's license, restriction of your right to possess firearms and ammunition, or consequences on your immigration status. An attorney could advise you about those consequences.
- If you exercise your right to proceed without the services of an attorney, you are responsible for complying with the rules of court, including rules of evidence and other rules of procedure.
- You will be expected to exhibit proper behavior before the judge and jury.
- You will be required to pay for all defense expenses that could be provided as part of a public defender's representation, including the costs of investigators and expert witnesses.
- Given the above considerations, the court encourages you not to represent yourself.

#### 4. Meeting with a Prosecutor.

If a prosecutor seeks to meet with you, including in an effort to resolve your case(s), before you appear before the court and further discuss with the judge your right to be represented by an attorney, you should be aware of the following: you are not required to meet with a prosecutor, and you have the right to be represented by an attorney at any meeting you wish to have with a prosecutor; further, you have the right to instead first appear before the judge in court, where your right to an attorney will be further addressed and explained by the judge. If you choose to first meet with a prosecutor, including without an attorney representing you, you should keep in mind that the prosecutor represents the governmental entity that has brought these charges against you and not you. If you choose to meet with a prosecutor without an attorney representing you, you have the right to request an attorney at any later time before a final resolution of the case.

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**I state that I have fully and completely read this document regarding the right to counsel, and that I understand it. (If you do not understand any of this document, you should appear before the judge in open court before signing it).** At this time, I (choose one)

Wish to be screened for a court-appointed attorney.

Want additional time to retain my own attorney.

Am represented by an attorney. My attorney's name is \_\_\_\_\_.

Waive my right to be represented by an attorney, understanding, however, that I have a right to request to be represented by an attorney at any time before a final resolution of my case(s).

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Signature of Defendant

Date (MM/DD/YYYY)