

# IN THE MUNICIPAL COURT OF LICKING COUNTY, OHIO

## YOUR RIGHTS IN COURT

Print Your Name: \_\_\_\_\_

[ ] **Please read these instructions thoroughly.** As you read each paragraph place your initials in the box at the beginning of the paragraph. When your case is called and you go before the Judge you will be asked for this pamphlet to check and make sure all the boxes have been initialed. If they have not been initialed, he will ask you to do so. The completed rights form will then be attached to your case and become part of the case file.

[ ] The possible maximum penalties for most misdemeanor crimes are as follows:

[ ] 1. MISDEMEANOR OF THE FIRST DEGREE, six (6) months in jail or a fine of \$1,000 or both.

[ ] 2. MISDEMEANOR OF THE SECOND DEGREE, 90 days in jail or a fine of \$750 or both.

[ ] 3. MISDEMEANOR OF THE THIRD DEGREE, 60 days in jail or a fine of \$500 or both.

[ ] 4. MISDEMEANOR OF THE FOURTH DEGREE, 30 days in jail or a fine of \$250 or both.

[ ] 5. UNCLASSIFIED MISDEMEANOR, no jail sentence, fines up to \$1,000 and community service.

[ ] 6. MINOR MISDEMEANOR, no jail sentence and a fine of up to \$150.

[ ] For all misdemeanor offenses the Court may, as part of the penalty imposed on a plea or finding of guilty, order restitution paid to the victim or victims of the offense and/or order the offender to perform up to five-hundred (500) hours of community service. Additionally, the offender may be placed on probation or community control for up to five years.

[ ] For most traffic violations, the penalty can be:

[ ] 1. A maximum fine of up to \$150 for a first or second offense within one year (minor misdemeanor). 2. If the violation is a third or more offense within one (1) year after the first offense, a maximum fine of \$250 or imprisonment for 30 days, or both (misdemeanor fourth degree).

[ ] Some examples of the more serious traffic charges which are misdemeanors of the first degree:

[ ] A. Driving under the influence of alcohol or drugs. \*B. Leaving the scene of an accident. \*C. Drag Racing. \*D. Fleeing a police officer /failure to comply. \*E. Vehicular Homicide. F. Driving while license is under suspension or revocation. G. Driving without a valid operator's license.

[ ] If you are convicted or plead guilty to one of the violations listed above which has a star (\*) in front of it, the Court must suspend your right to drive for a period of not less than 30 days and in addition can suspend your right to drive for a maximum period of five (5) years. Additionally, the Court must suspend your operator's license for a minimum of six (6) months and a maximum of five (5) years if you are convicted or plead guilty to any drug offense, such as possession of an illegal substance, possession of drug paraphernalia, or drug abuse. If your license is suspended, you must pay a reinstatement fee and comply with the Financial Responsibility Act of the State of Ohio before your drivers license will be returned by the Bureau of Motor Vehicles.

[ ] **2. OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF ALCOHOL.** If you are appearing at your initial arraignment on the charge of driving under the influence of alcohol and/or drugs of abuse the Court will, when you appear before the bench, permit you to appeal the administrative license suspension (ALS) imposed by the arresting officer at the time of arrest if you refused to take the test designated by the law enforcement officer or if you took the test and the results indicated that the arrested person's blood contained a concentration of eight-hundredths (.08) of one percent (1%) or more by weight of alcohol, the person's breath contained a concentration of eight-hundredths (.08) of one gram or more by weight of alcohol per two hundred ten (210) liters of the person's breath, or the person's urine contained a concentration of eleven-hundredths (.11) of one gram or more by weight of alcohol per one hundred milliliters of the person's urine at the time of the alleged offense. Your operator's license will be suspended by the Court until the final adjudication of the case if, in addition to the above, the Court finds:

[ ] 1. That the arrest is based on reasonable grounds, that you were asked to take the test and told what would happen if you failed or refused and that you refused to take the test or failed it, or if the Court determines that your continued driving would be a threat to public safety.

[ ] **If you are convicted or plead guilty to the charge of driving while under the influence of alcohol and/or drugs of abuse and if the conviction or plea is your first conviction or plea within the last ten (10) years, the Court must, as a minimum:**

[ ] 1. Sentence you to seventy-two (72) hours in the county jail or authorize you to attend a seventy-two (72) hour approved driver intervention program; and

[ ] 2. Suspend your driving privileges for not less than one (1) year and not more than three (3) years; and

[ ] 3. Enter a fine of no less than \$375 and not more than \$1,075; and

[ ] **If you are convicted or plead guilty to the charge of driving while under the influence of alcohol and/or drugs of abuse and if the conviction or plea is your second conviction or plea within the last ten (10) years, the Court must, as a minimum:**

- [ ] 1. Sentence you to ten (10) consecutive days in the county jail; and
- [ ] 2. Suspend your driving privileges for not less than one (1) year, and not more than seven (7) years; and
- [ ] 3. Enter a fine of no less than \$525 and not more than \$1,625; and
- [ ] 4. Impound your license plates and registration and immobilize your vehicle for ninety (90) days.

[ ] **If you are convicted or plead guilty to the charge of driving while under the influence of alcohol and/or drugs of abuse and if the conviction or plea is your third conviction or plea within the last ten (10) years, the Court must, as a minimum:**

- [ ] 1. Sentence you to thirty (30) consecutive days in the county jail; and
- [ ] 2. Suspend your driving privileges for not less than two (2) years and not more than twelve (12) years; and
- [ ] 3. Enter a fine of no less than \$850 and not more than \$2,750; and
- [ ] 4. Order criminal forfeiture of your motor vehicle.

[ ] The penalties set forth above are **MANDATORY MINIMUM** penalties. The Court must assess six (6) points against your driving record and send that information to the Ohio Bureau of Motor Vehicles each time you are convicted of or plead guilty to the charge of driving while under the influence of alcohol and/or drugs of abuse. It is important to remember that a first conviction within a ten (10) year period for the charge of driving while under the influence of alcohol and/or drugs of abuse is a first degree misdemeanor which carries a possible maximum fine of up to \$1,075 and six (6) months in jail or both. If you are convicted or plead guilty to the charge of driving while under the influence of alcohol and/or drugs of abuse and if the conviction or plea is your second conviction or plea within the last ten (10) years, this carries a possible maximum fine of up to \$1,625 and six (6) months in jail, or both. If you are convicted of or plead guilty to the charge of driving under the influence of alcohol and/or drugs of abuse, and if the conviction or plea is your third conviction or plea within the last ten (10) years, this carries a possible maximum fine of up to \$2,750 and one (1) year in the county jail, or both, and you will be required to submit to an alcohol treatment program.

[ ] If you plead guilty or are found guilty by the Court of a violation of 4511.19 of the Ohio Revised Code or its municipal equivalent, and if you had a concentration of .17 of one gram or more by weight of alcohol per 210 liters of breath or a concentration of .17 of 1% or more by weight of alcohol in your blood or a concentration of .238 of one gram or more by weight of alcohol per hundred milliliters of urine, then the minimum jail sentences for the offenses of operating with a prohibited concentration of alcohol which were discussed in the preceding sections of this pamphlet are doubled. In other words, the mandatory minimum sentence for a first time offender becomes six (6) days of incarceration, for a second time offender twenty (20) days, and for a third time offender sixty (60) days.

[ ] If you are charged with a refusal OVI and have a prior conviction, minimum jail and penalties may be doubled.

[ ] **If you are convicted of or plead guilty to the charge of driving under suspension the offense may be a first (1st) degree misdemeanor, an unclassified misdemeanor or a fourth (4th) degree misdemeanor. The judge will inform you at arraignment what the potential penalties are for the offense which you have been charged.**

[ ] **THE FOLLOWING WILL HAPPEN WHEN YOU APPEAR BEFORE THE JUDGE FOR THE FIRST TIME.**

- [ ] 1. When your name is called, please approach the bench, speak into the microphone and speak up loud and clear, as we are recording these proceedings.
- [ ] 2. The prosecuting attorney, judge, or clerk will read the complaint to you which sets forth the charge and will explain it to you if you do not understand the nature of the charge. You will be permitted to read the complaint.
- [ ] 3. You will have the opportunity to ask any questions that you have, on either the rights explained in this pamphlet, the charge, or the maximum penalty possible under law.
- [ ] 4. You have the right to retain an attorney even if you intend to plead guilty and a right to a reasonable continuance to secure an attorney for this purpose.
- [ ] 5. If you do not intend to be represented by an attorney, you will be asked to sign the waiver of an attorney located at the end of this pamphlet.
- [ ] 6. Do not make any statements concerning the facts of your case until the Judge asks you for a statement. Any statements you make may be used against you at trial if a plea of not guilty is entered.
- [ ] 7. The following is an explanation of the pleas which you can enter and your rights under those pleas:

## NOT GUILTY PLEA

- [ ] By pleading not guilty you are denying the charge. THERE WILL BE NO TRIAL TODAY. The prosecution, at a trial scheduled for a later date, will be required to prove its case against you beyond a reasonable doubt.
- [ ] If the offense with which you are charged carries as part of the penalty a possible jail sentence, you can demand a jury trial. Unless the jury demand is made in writing and filed with the Clerk of Courts no less than ten (10) days prior to the date set for trial or on or before the third day following receipt of notice of the date set for trial, whichever is later, your case will be heard by the Judge. Failure to demand a jury trial as set forth above is a complete waiver of your right to a jury trial.
- [ ] If you are charged with an offense that carries a maximum penalty of imprisonment for one (1) year in the county jail, your case will be automatically tried to a jury unless you sign a waiver of that right.
- [ ] a. To protect your right to appeal you should request in writing three (3) days before the trial that a record be made of your trial so that it will be available for the Court of Appeals to review. b. You have the right to have subpoenas issued by the Clerk of Courts to compel the attendance of witnesses in your behalf. c. You have the right to testify or not testify in your own defense. Under the Constitution, you are not required to give testimony against yourself. However, if you do take the witness stand, you will be subject to cross-examination by the prosecuting attorney. d. You have the right to cross-examine witnesses testifying against you. e. You have the right to appeal the decision of the Court or jury if you are found guilty. There is an appeal procedure which must be strictly followed. That process is **NOT** set forth in this pamphlet.
- [ ] IF YOU ARE IN DOUBT AS TO WHETHER YOU ARE OR ARE NOT GUILTY, THIS COURT SUGGESTS THAT YOU ENTER A PLEA OF NOT GUILTY AND REQUIRE THE PROSECUTION TO PROVE ITS CASE AGAINST YOU.

## GUILTY PLEA

- [ ] The plea of guilty is a complete admission of your guilt. If you plead guilty, you will be permitted to give a statement or explanation to the Judge before sentence is imposed.

## NO CONTEST PLEA

- [ ] The plea of no contest is not an admission of your guilt, but is an admission of the truth of the facts stated in the complaint filed against you. Therefore, please recognize the difference between a not guilty plea and a no contest plea. A plea of No Contest cannot be used against you in any later civil or criminal proceedings. The evidence presented against you may be in the form of written statements. Entering this plea constitutes a stipulation that the Court may make a finding of guilty or not guilty from the explanation of the circumstances and if guilt be found, the Court may impose sentencing. A plea of No Contest, therefore, constitutes a waiver of certain constitutional rights including the right to be represented by counsel at this proceeding.

## FINGERPRINTING NOTIFICATION

- [ ] Ohio Revised Code section 109.60 requires that people be fingerprinted upon arrest and/or conviction of certain offenses. If you have been arrested and/or convicted of committing any of these offenses, and have not already been fingerprinted, you are hereby ordered to appear at the Licking County Sheriff's Office, or Police Department where charge was initiated, within twenty-four hours to have your fingerprints taken.

- [ ] You are required to be fingerprinted if arrested or convicted of any of the following offenses:

- [ ] 1. any felony;

- [ ] 2. a crime that constitutes a misdemeanor on the first offense and a felony on subsequent offenses;

- [ ] 3. or any of the following misdemeanors:

- [ ] Assault, R.C. 2903.13; Failing to Provide for a Functionally Impaired Person, R.C. 2903.16; Aggravated Menacing, R.C. 2903.21; Patient Abuse, R.C. 2903.34; Child Enticement, R.C. 2905.05; Sexual Imposition, R.C. 2907.06; Procuring, R.C. 2907.23; Disseminating Matter Harmful to Juveniles, R.C. 2907.31; Unlawful Abortion, R.C. 2919.22; Endangering Children, R.C. 2919.22; Contributing to the Unruliness or Delinquency of a Child, R.C. 2919.24; Domestic Violence, R.C. 2919.25; Carrying a Concealed Weapon, R.C. 2923.12.

## FIREARM NOTICE

- [ ] Pursuant to R.C. 2943.033, you are advised that if you enter a guilty pleas or plea of no contest to a misdemeanor crime involving violence where you are or were any of the following:

- [ ] 1. A spouse, person living as a spouse, former spouse of the alleged victim;

- [ ] 2. A parent or child of the alleged victim;

- [ ] 3. A parent or child of a spouse, person living as a spouse, or former spouse of the alleged victim;
- [ ] 4. The natural parent of any child of whom the alleged victim is the other natural parent or the putative natural parent
- [ ] It may be unlawful for you to ship, transport, purchase, or possess a firearm or ammunition as a result of any conviction for a misdemeanor offense of violence pursuant to federal law under 18 U.S.C. 922(g)(9).
- [ ] **If you have any questions whether this law makes it illegal for you to ship, transport, purchase or possess a firearm or ammunition, you should consult an attorney.**

**BAIL**

- [ ] You have the right to bail, if the offense is bailable. The Judge will consider the matter of bail to assure your appearance in Court if bail has not already been set.

**PROOF OF FINANCIAL RESPONSIBILITY**

- [ ] Ohio law requires every motorist or motor vehicle owner to have proof of financial responsibility. If you plead guilty or are found guilty of a traffic offense, and you have not already shown proof of financial responsibility to the officer who wrote the ticket, you must present proof of financial responsibility either to the Clerk of Courts or to the Bureau of Motor Vehicles. If you do not demonstrate proof of financial responsibility to the Clerk of Courts and you have not demonstrated proof of financial responsibility to the officer who wrote you the ticket, the Bureau of Motor Vehicles may suspend your operator's license until you comply, but not less than a minimum of ninety (90) days. Additionally, if you are the owner of the vehicle, you must turn in your license plates and certificate of registration to the Bureau of Motor Vehicles. Once your license has been suspended for failure to have proof of financial responsibility, you must deal directly with the Bureau of Motor Vehicles to have the suspension lifted.

**POINT SYSTEM**

- [ ] If you are convicted or plead guilty to a traffic violation, the Court **must** send a record of that conviction to the Ohio Bureau of Motor Vehicles. Each conviction is assigned or given a certain number of points. If you receive twelve (12) points within a two (2) year period, the Bureau is required by law to suspend your right to drive for a period of six (6) months. If you want to know the points that will be assigned in your particular case, ask the Judge when you are called to the bench.

**NON U.S. CITIZENS**

- [ ] If you are not a citizen of the United States you are hereby advised that conviction of the offense to which you are pleading guilty (or no contest, when applicable) may have the consequences of deportation, exclusion from admission to the United States, or denial of naturalization pursuant to the laws of the United States.

**COURT APPOINTED ATTORNEY**

- [ ] This Court is not served by a public defender, but uses a court appointed attorney system. To receive a court appointed attorney, you must fill out a written application, which will require that you provide such information as your address, place of employment, income for yourself as well as other members of your household, and certain expenses, so a determination can be made as to whether or not you qualify for a court appointed attorney. **It is recommended that you do this as soon as possible and not delay requesting a court appointed attorney.** as applications for court appointed attorneys at the time of trial are not looked upon favorably. Applications may be obtained at the Office of the Clerk of the Municipal Court, 40 West Main Street, Newark, Ohio or at the Licking County Justice Center, 155 East Main Street, Newark, Ohio from a corrections officer.

**WAIVER OF PRIVATE OR COURT APPOINTED ATTORNEY**  
(This waiver is only to be signed if you intend to proceed without an attorney)

- [ ] It has been explained to me that I have a right to a continuance of my case to talk with an attorney of my own choosing, or, if I am without funds to hire one, I can ask the Judge to appoint one to represent me. Knowing this, I now voluntarily acknowledge and state that I do not want to be represented by an attorney in this case.

Date: \_\_\_\_\_ Signed: \_\_\_\_\_

**ACKNOWLEDGMENT OF RIGHTS AND INSTRUCTIONS**

- [ ] I hereby acknowledge and state that I have read the foregoing rights and instructions and have had them explained to me by the Bailiff or Judge and have placed my initials before each paragraph acknowledging that I have read and understood that paragraph.

Date: \_\_\_\_\_ Signed: \_\_\_\_\_

The defendant appeared before ( ) Judge B. Matthew George, or ( ) Judge David N. Stansbury