

STATEWIDE ARRAIGNMENT FILM SCRIPT

You are here today because you have been charged with a crime.

I'm going to explain your rights to you. I'm also going to explain the choices which you have to make in court today. The information presented here is very important to you. If you don't understand something that is explained in this presentation, when your case is called, you should tell the judge that you don't understand.

You should have been given a copy of the charges filed against you. The criminal complaint or information lists the charges which have been brought against you. If you do not have a copy of the complaint or information against you, tell the judge when your case is called.

You have important legal rights.

First, you have the right to remain silent. This means you have the right not to say anything'. You do not have to make any statements or answer any questions. Any statements that you make can be used against you.

Also, you are considered innocent unless you are proven guilty beyond a reasonable doubt at trial.

You have a right to have a lawyer help you with your case. You have the right to hire your own lawyer. You have the right to a court appointed lawyer if you want a lawyer, but cannot afford to hire one.

I am going to explain to you what a lawyer is and what a lawyer does.

A lawyer is a person who has studied the laws of the State of Alaska and has passed a test showing an understanding of these laws.

A lawyer can explain things about your case and about the law which you might not understand if you represented yourself.

Your lawyer will talk with you about the facts of the case, in private. Your lawyer is not allowed to tell anyone what you say about this case unless you want the lawyer to do so.

Your lawyer will come to court with you and speak on your behalf. Your lawyer will talk to the prosecutor for you.

Your lawyer will examine the charges that have been brought against you to be certain they are in proper form. Because your lawyer is trained in the law, the lawyer might see some mistakes in the legal papers which have been filed against you which you do not see. Your lawyer will prepare and file legal papers for you.

Your lawyer will make sure that no improper evidence is brought against you in court.

Your lawyer will make sure that all of your rights are protected in court.

Your lawyer can advise you about whether or not you should have a trial.

Your lawyer will present your case to this court in the way most favorable to you. Your lawyer will question any witnesses who testify against you, and your lawyer will present evidence in court for you.

Your lawyer will obtain documents and other materials which may be offered as evidence against you at trial.

Your lawyer may investigate your case to locate witnesses and evidence that is favorable to you.

Your lawyer may negotiate with the prosecutor regarding the charges or the sentence.

Even if you think you want to admit that the charges against you are true, a lawyer can help by giving favorable information to the court and by making an argument for you at sentencing.

Because your right to a lawyer is so important, if you want a lawyer but cannot pay for one, the court will appoint a lawyer for you.

If you ask a judge for a court appointed lawyer, an investigation of your finances will be done. You will be asked questions about your finances.

If the court appoints a lawyer for you, you will be required to repay part of the cost of the lawyer if you are convicted. If you are not convicted you will not have to pay anything. In most instances, the court will use a schedule to determine the amount you are required to pay. The schedule is printed on the back of the form you will use to request the lawyer. It also appears in the brochure on court-appointed lawyers which you can obtain from the court.

You have the right to a speedy and public trial within 120 days from the date you are served with the charging document. A trial is a hearing at which it is decided if you are guilty or not guilty.

If you are charged with a misdemeanor, you have a right to have a trial by a jury of six persons. If you are charged with a felony, you have the right to have a trial by a jury of twelve persons. A jury is a group of citizens who will hear the evidence and make a

decision in your case about whether you are guilty or not guilty.

When a judge is assigned to your case, you may ask for a different judge within five days. If you do not want to explain why you want a different judge, you may ask for a change only once. If you have a good reason to request a different judge, you may do so more than once.

At trial, you have the right to listen to and look at the people who testify against you, and you can ask them questions about what they say.

You have the right to call your own witnesses at trial. The court can prepare a legal paper called a subpoena, which requires your witnesses to come to your trial.

You can testify at trial or you can remain silent. The fact that you remain silent cannot be used against you.

If you are in custody now, you have the right to a bail hearing. That means you have the right to ask a judge to reconsider your bail and decide if you can be released on your own recognizance (that is, on the basis of your promise to come to court when required) or upon a reasonable bail while awaiting trial. Examples of reasonable bail may include: restrictions on communication, driving, or alcohol consumption; the posting of bail money; and/or the requirement of a third-party custodian.

Now I will explain the three possible answers you can give to the charges that have been brought against you. Those answers are called pleas. The three possible pleas are: **not guilty, guilty, and no contest.**

First, I will explain the **"not guilty"** plea. By pleading not guilty, you could mean one of the following four things:

1. you did not do what you are charged with doing,
2. you want to present a legal defense or excuse to the charge,
3. you are not sure how you want to plead now and you want to think about it some more,
4. you want to make the prosecution present the case and prove, in trial, that you are guilty of the charge beyond a reasonable doubt.

If you plead "not guilty" your case will be scheduled for a trial.

The second plea is **"guilty."** If you plead guilty, you will be admitting that you committed each and every act with which you are charged. You will also be saying that you do not want to raise any valid defenses or excuses to the charges against you. You will be giving up your rights to remain silent and to be presumed innocent until proven guilty beyond a reasonable doubt at trial. If you plead guilty, the judge will enter a judgment of conviction today. The judge will sentence you today unless there is some reason to

put off sentencing until a later time.

The third plea is "**no contest**" (nolo contendere). If you plead no contest, you will be saying you will not fight the charges against you. A judgment of conviction will be entered against you and you will be sentenced as if you had pled guilty to the charge.

If there is a claim that you damaged property or injured someone it is possible that the property owner or the injured person may file a *civil lawsuit* against you. If you plead "guilty," your guilty plea may be used in a lawsuit to prove that you committed a crime. If you plead "no contest," if the law is not clear about how the "no contest" plea may be used against you in a lawsuit. The judge will NOT be able to advise you about whether a "not guilty" plea, a "guilty" plea, or a "no contest" plea would be best for you. A lawyer may be able to give you advice about your decision.

In summary, the three possible pleas are not guilty, guilty, and no contest. If you have any question about these pleas, ask the judge when your case is called.

If you plead not guilty, your case will be scheduled for a trial. Today, the judge or court clerk will tell you a date and time when you must come back to court for a trial call and a trial.

As I've previously explained, if you plead guilty or no contest today, you will probably be given a sentence today. If a fine is part of the sentence, you must go to the clerk's office in this court and pay the fine on or before the date it is due.

In many cases, the sentence may require that you participate in alcohol screening. If you are referred to an alcohol screening, you

must go to the alcohol screening office when the judge tells you to go. In alcohol screening, you will be asked questions about your background. Your responses are evaluated and, depending on the results, you may be referred to a education or treatment program. If you are referred to a program, your participation may be monitored. If you do not do what you are told to do, the prosecutor may be notified and the court may issue a warrant for your arrest.

If you are convicted of a moving traffic violation, there will be points assessed against your license by the Department of Public Safety. The number of points you receive will depend on how serious the offense is considered to be. Your privilege to drive in Alaska will be suspended if you accumulate 12 or more points in a period of one year, or 18 or more points in a period of two years. For some traffic violations, such as driving while intoxicated, reckless driving, or driving with license suspended, the court must revoke your license when you are convicted. The points you receive and possible administrative suspension of your driving privileges are **in addition to** the sentence the court might impose.

The court is required to impose a surcharge for most vehicle and traffic offenses and some criminal charges.

Some of you may have been charged with a felony. A felony is a more serious type of criminal case, and the penalties are more serious. If you have been charged with a felony, most of your case will be handled by the Superior Court, rather than the District Court where you are today. You will not be asked to enter a plea today. The judge may consider issues relating to your release and bail today.

If you are charged with a felony, you have some additional rights. One of these additional rights is your right to have the State quickly show, at a grand jury proceeding or a preliminary hearing, that there is a good reason to charge you with a crime.

A grand jury is a group of between 12 and 18 citizens who will listen to testimony and decide if the State has enough evidence to continue to charge you with a felony or decide if the charge against you should be dismissed. The grand jury proceeding is not a trial and you do not have the right to be present. The charging document which is issued by the grand jury is called an indictment.

You also have the right to a preliminary examination if the grand jury does not hear the case promptly. If you are in jail and you have **NOT** been indicted by the grand jury within 10 days of your

initial appearance, then you have a right to a preliminary hearing. If you are **NOT** in jail and you have **NOT** been indicted, you have the right to have a preliminary hearing within **20 DAYS** of your initial appearance.

A preliminary hearing is a hearing at which the state must prove:

1. that there is probable cause (that is, believe) that a crime has been committed, and

a good reason to

2. that there is probable cause to believe that you committed the crime.

You are not required to testify at the preliminary hearing and you will not be penalized for not speaking.

It is very important that you understand all the rights and responsibilities which have been explained to you. If you have any questions, you should ask the judge the questions when your case is called.