

**RULE 3.111. PROVIDING COUNSEL TO INDIGENTS**

**(a) When Counsel Provided.** A person entitled to appointment of counsel as provided herein shall have counsel appointed when the person is formally charged with an offense, or as soon as feasible after custodial restraint, or at the first appearance before a committing judge, whichever occurs earliest.

**(b) Cases Applicable.**

(1) Counsel shall be provided to indigent persons in all prosecutions for offenses punishable by incarceration including appeals from the conviction thereof. In the discretion of the court, counsel does not have to be provided to an indigent person in a prosecution for a misdemeanor or violation of a municipal ordinance if the judge, at least 15 days prior to trial, files in the cause a written order of no incarceration certifying that the defendant will not be incarcerated in the case pending trial or probation violation hearing, or as part of a sentence after trial, guilty or nolo contendere plea, or probation revocation. This 15-day requirement may be waived by the defendant or defense counsel.

(A) If the court issues an order of no incarceration after counsel has been appointed to represent the defendant, the court may discharge appointed counsel unless the defendant is incarcerated or the defendant would be substantially disadvantaged by the discharge of appointed counsel.

(B) If the court determines that the defendant would be substantially disadvantaged by the discharge of appointed counsel, the court shall either:

(i) not discharge appointed counsel; or

(ii) discharge appointed counsel and allow the defendant a reasonable time to obtain private counsel, or if the defendant elects to represent himself or herself, a reasonable time to prepare for trial.

(C) If the court withdraws its order of no incarceration, it shall immediately appoint counsel if the defendant is otherwise eligible for the

services of the public defender. The court may not withdraw its order of no incarceration once the defendant has been found guilty or pled nolo contendere.

(2) Counsel may be provided to indigent persons in all proceedings arising from the initiation of a criminal action against a defendant, including postconviction proceedings and appeals therefrom, extradition proceedings, mental competency proceedings, and other proceedings that are adversary in nature, regardless of the designation of the court in which they occur or the classification of the proceedings as civil or criminal.

(3) Counsel may be provided to a partially indigent person on request, provided that the person shall defray that portion of the cost of representation and the reasonable costs of investigation as he or she is able without substantial hardship to the person or the person's family, as directed by the court.

(4) "Indigent" shall mean a person who is unable to pay for the services of an attorney, including costs of investigation, without substantial hardship to the person or the person's family; "partially indigent" shall mean a person unable to pay more than a portion of the fee charged by an attorney, including costs of investigation, without substantial hardship to the person or the person's family.

(5) Before appointing a public defender, the court shall:

(A) inform the accused that, if the public defender or other counsel is appointed, a lien for the services rendered by counsel may be imposed as provided by law;

(B) make inquiry into the financial status of the accused in a manner not inconsistent with the guidelines established by section 27.52, Florida Statutes. The accused shall respond to the inquiry under oath;

(C) require the accused to execute an affidavit of insolvency as required by section 27.52, Florida Statutes.

(c) **Duty of Booking Officer.** In addition to any other duty, the officer who commits a defendant to custody has the following duties:

(1) The officer shall immediately advise the defendant:

(A) of the right to counsel;

(B) that, if the defendant is unable to pay a lawyer, one will be provided immediately at no charge.

(2) If the defendant requests counsel or advises the officer that he or she cannot afford counsel, the officer shall immediately and effectively place the defendant in communication with the ~~(office of)~~ public defender of the circuit in which the arrest was made.

(3) If the defendant indicates that he or she has an attorney or is able to retain an attorney, the officer shall immediately and effectively place the defendant in communication with the attorney or the Lawyer Referral Service of the local bar association.

(4) The public defender of each judicial circuit may interview a defendant when contacted by, or on behalf of, a defendant who is, or claims to be, indigent as defined by law.

(A) If the defendant is in custody and reasonably appears to be indigent, the public defender shall tender such advice as is indicated by the facts of the case, seek the setting of a reasonable bail, and otherwise represent the defendant pending a formal judicial determination of indigency.

(B) If the defendant is at liberty on bail or otherwise not in custody, the public defender shall elicit from the defendant only the information that may be reasonably relevant to the question of indigency and shall immediately seek a formal judicial determination of indigency. If the court finds the defendant indigent, it shall immediately appoint counsel to represent the defendant.

**(d) Waiver of Counsel.**

(1) The failure of a defendant to request appointment of counsel or the announced intention of a defendant to plead guilty shall not, in itself, constitute a waiver of counsel at any stage of the proceedings.

(2) A defendant shall not be considered to have waived the assistance of counsel until the entire process of offering counsel has been completed and a thorough inquiry has been made into both the accused's comprehension of that offer and the accused's capacity to make a knowing and intelligent waiver. Before determining whether the waiver is knowing and intelligent, the court shall advise the defendant of the disadvantages and dangers of self-representation.

(3) Regardless of the defendant's legal skills or the complexity of the case, the court shall not deny a defendant's unequivocal request to represent himself or herself, if the court makes a determination of record that the defendant has made a knowing and intelligent waiver of the right to counsel, and does not suffer from severe mental illness to the point where the defendant is not competent to conduct trial proceedings by himself or herself.

(4) A waiver of counsel made in court shall be of record; a waiver made out of court shall be in writing with not less than 2 attesting witnesses. The witnesses shall attest the voluntary execution thereof.

(5) If a waiver is accepted at any stage of the proceedings, the offer of assistance of counsel shall be renewed by the court at each subsequent stage of the proceedings at which the defendant appears without counsel.

**(e) Withdrawal of Defense Counsel After Judgment and Sentence.**

The attorney of record for a defendant in a criminal proceeding shall not be relieved of any duties, nor be permitted to withdraw as counsel of record, except with approval of the lower tribunal on good cause shown on written motion, until after:

(1) the filing of:

(A) a notice of appeal;

(B) a statement of judicial acts to be reviewed, if a transcript will require the expenditure of public funds;

(C) directions to the clerk, if necessary; and

(D) a designation of that portion of the reporter's transcript that supports the statement of judicial acts to be reviewed, if a transcript will require expenditure of public funds; or

(2) substitute counsel has been obtained or appointed, or a statement has been filed with the appellate court that the appellant has exercised the right to self-representation. In publicly funded cases, the public defender for the local circuit court shall be appointed initially until the record is transmitted to the appellate court; or

(3) the time has expired for filing of a notice of appeal, and no notice has been filed.

Orders allowing withdrawal of counsel are conditional, and counsel shall remain of record for the limited purpose of representing the defendant in the lower tribunal regarding any sentencing error that the lower tribunal is authorized to address during the pendency of the direct appeal under rule 3.800(b)(2).

**(f) Motion for Defense Related Costs for Indigent Defendants.**

(1) Any defendant who has been found by the court to be indigent for costs, and is not represented by the office of the public defender, office of the regional conflict counsel, or the office of capital collateral regional counsel, may file a motion for funds for the appointment of an investigator, expert, or any other services necessary for an adequate defense.

(2) The defendant may file such motion ex parte and under seal pursuant to Florida Rule of Judicial Administration 2.420 with notice and service on the Justice Administration Commission.

(3) Any hearing on defense related costs filed pursuant to subdivision (f)(2) of this rule shall be ex parte with only the defendant and Justice Administration Commission present. The ~~trial~~ court shall determine reasonable compensation for the requested service. The court may, in the interest of justice, and on a finding that timely procurement of necessary services could not await prior authorization, ratify such service after they have been obtained.

## Committee Notes

**1972 Adoption.** Part 1 of the ABA Standard relating to providing defense services deals with the general philosophy for providing criminal defense services and while the committee felt that the philosophy should apply to the Florida Rules of Criminal Procedure, the standards were not in such form to be the subject of that particular rule. Since the standards deal with the national situation, contained in them were alternative methods of providing defense services, i.e., assigned counsel vs. defender system; but, Florida, already having a defender system, need not be concerned with the assigned counsel system.

(a) Taken from the first sentence of ABA Standard 5.1. There was considerable discussion within the committee concerning the time within which counsel should be appointed and who should notify defendant's counsel. The commentary in the ABA Standard under 5.1a, b, convinced the committee to adopt the language here contained.

(b) Standard 4.1 provides that counsel should be provided in all criminal cases punishable by loss of liberty, except those types where such punishment is not likely to be imposed. The committee determined that the philosophy of such standard should be recommended to the Florida Supreme Court. The committee determined that possible deprivation of liberty for any period makes a case serious enough that the accused should have the right to counsel.

(c) Based on the recommendation of ABA Standard 5.1b and the commentary thereunder which provides that implementation of a rule for providing the defendant with counsel should not be limited to providing a means for the accused to contact a lawyer.

(d) From standard 7.2 and the commentaries thereunder.

**1980 Amendment.** Modification of the existing rule (the addition of (b)(5)(A)–(C)) provides a greater degree of uniformity in appointing counsel to indigent defendants. The defendant is put on notice of the lien for public defender services and must give financial information under oath.

A survey of Florida judicial circuits by the Committee on Representation of Indigents of the Criminal Law Section (1978–79) disclosed the fact that several circuits had no procedure for determining indigency and that there were circuits in which no affidavits of insolvency were executed (and no legal basis for establishing or collecting lien monies).

**1992 Amendment.** In light of *State v. District Court of Appeal of Florida, First District*, 569 So. 2d 439 (Fla. 1990), in which the supreme court pronounced that motions seeking belated direct appeal based on ineffective assistance of counsel should be filed in the trial court pursuant to rule 3.850, the committee recommends that rule 3.111(e) be amended to detail with specificity defense counsel’s duties to perfect an appeal prior to withdrawing after judgment and sentence. The present provision merely notes that such withdrawal is governed by Florida Rule of Appellate Procedure 9.140(b)(3).

**1998 Amendment.** The amendments to (d)(2)–(3) were adopted to reflect *State v. Bowen*, 698 So. 2d 248 (Fla. 1997), which implicitly overruled *Cappetta v. State*, 204 So. 2d 913 (Fla. 4th DCA 1967), *rev’d on other grounds* 216 So. 2d 749 (Fla. 1968). See *Fitzpatrick v. Wainwright*, 800 F.2d 1057 (11th Cir. 1986), for a list of factors the court may consider. See also *McKaskle v. Wiggins*, 465 U.S. 168, 104 S.Ct. 944, 79 L.Ed.2d 122 (1984), and *Savage v. Estelle*, 924 F.2d 1459 (9th Cir. 1990), *cert. denied* 501 U.S. 1255, 111 S.Ct. 2900, 115 L.Ed.2d 1064 (1992), which suggest that the defendant’s right to self-representation is limited when the defendant is not able or willing to abide by the rules of procedure and courtroom protocol.

**2000 Amendment.** This rule applies only to judicial proceedings and is inapplicable to investigative proceedings and matters. See rule 3.010.

**2002 Amendment.** Indigent defendants are entitled to counsel if they are either currently in custody or might be incarcerated in their case. See *Alabama v. Shelton*, 122 S.Ct. 1764, 1767 (2002) (Sixth Amendment forbids imposition of suspended sentence that may “end up in the actual deprivation of a person’s liberty” unless defendant accorded “the guiding hand of counsel”). See also *Tur v. State*, 797 So. 2d 4 (Fla. 3d DCA 2001) (uncounseled plea to criminal charge

cannot result in jail sentence based on violation of probationary sentence for that charge); *Harris v. State*, 773 So. 2d 627 (Fla. 4th DCA 2000).

Discharge of the public defender based on an order certifying no incarceration that is entered after the public defender has already spent considerable time and resources investigating the case and preparing a defense may leave the defendant “in a position worse than if no counsel had been appointed in the first place.” *State v. Ull*, 642 So. 2d 721, 724 (Fla. 1994).

In determining whether a defendant’s due process rights would be violated by the discharge of the public defender, the court should consider all of the relevant circumstances, including, but not limited to:

1. The stage of the proceedings at which the order of no incarceration is entered.
2. The extent of any investigation and pretrial preparation by the public defender.
3. Any prejudice that might result if the public defender is discharged.
4. The nature of the case and the complexity of the issues.
5. The relationship between the defendant and the public defender.

Counsel may be provided to indigent persons in all other proceedings in, or arising from, a criminal case and the court should resolve any doubts in favor of the appointment of counsel for the defendant. *See Graham v. State*, 372 So. 2d 1363, 1365 (Fla. 1979).

See form found at Fla. R. Crim. P. 3.994.

**2005 Amendment.** See Affidavit of Indigent Status as provided by *In re Approval of Form for Use by Clerks of the Circuit Courts Pursuant to Rule 10-2.1(a) of the Rules Regulating the Florida Bar*, 877 So. 2d 720 (Fla. 2004).

**20 Amendment.** Subpoena for the issuance of duces tecum shall be governed pursuant to rule 3.220.



**RULE 3.986. FORMS RELATED TO JUDGMENT AND SENTENCE**

**(a) Sufficiency of Forms.** The forms as set forth below, or computer generated formats that duplicate these forms, shall be used by all courts. Variations from these forms do not void a judgment, sentence, order, or fingerprints that are otherwise sufficient.

**(b) Form for Judgment.**

- Probation Violator
- Community Control Violator
- Retrial
- Resentence

In the Circuit Court,  
 \_\_\_\_\_ Judicial Circuit, in and for  
 \_\_\_\_\_ County, Florida  
 Division \_\_\_\_\_  
 Case Number \_\_\_\_\_

State of Florida

v.

\_\_\_\_\_  
 Defendant

**JUDGMENT**

The defendant, \_\_\_\_\_, being personally before this court represented  
 by \_\_\_\_\_, the attorney of record, and the state represented by \_\_\_\_\_, and having

been tried and found guilty by jury/by court of the following crime(s)

entered a plea of guilty to the following crime(s)

entered a plea of nolo contendere to the following crime(s)

Count	Crime	Offense Statute Number(s)	Degree of Crime	Case Number	OBTS Number
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____



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Judge

**(c) Form for Charges, Costs, and Fees.**

In the Circuit Court,  
\_\_\_\_\_ Judicial Circuit, in and for  
\_\_\_\_\_ County, Florida  
Division \_\_\_\_\_  
Case Number \_\_\_\_\_

State of Florida

v.

\_\_\_\_\_  
Defendant

**CHARGES/COSTS/FEEES**

The defendant is hereby ordered to pay the following sums ~~if checked~~:

~~\_\_\_ \$50.00 pursuant to section 938.03, Florida Statutes (Crimes Compensation Trust Fund).~~

~~\_\_\_ \$3.00 as a court cost pursuant to section 938.01, Florida Statutes (Criminal Justice Trust Fund).~~

~~\_\_\_ \$2.00 as a court cost pursuant to section 938.15, Florida Statutes (Criminal Justice Education by Municipalities and Counties).~~

~~\_\_\_ A fine in the sum of \$ \_\_\_\_\_ pursuant to section 775.0835, Florida Statutes. (This provision refers to the optional fine for the Crimes Compensation Trust Fund and is not applicable unless checked and completed. Fines imposed as part of a sentence to section 775.083, Florida Statutes, are to be recorded on the sentence page(s).)~~

~~\_\_\_ A sum of \$ \_\_\_\_\_ pursuant to section 938.27, Florida Statutes (Prosecution/Investigative Costs).~~

~~\_\_\_ A sum of \$ \_\_\_\_\_ pursuant to section 938.29, Florida Statutes (Public Defender/Appointed Counsel Fees).~~

~~\_\_\_ Restitution in accordance with attached order.~~

~~\_\_\_ \$201 pursuant to section 938.08, Florida Statutes (Funding Programs in Domestic Violence).~~

~~\_\_\_ A sum of \$ \_\_\_\_\_ for the cost of collecting the DNA sample required by section 943.325, Florida Statutes.~~

~~\_\_\_ Other \_\_\_\_\_~~

[Insert list of mandatory fines, discretionary fines, and restitution, if any.]

DONE AND ORDERED in open court in \_\_\_\_\_ County, Florida, on .....(date).....

\_\_\_\_\_  
Judge

**(d) Form for Sentencing.**

Defendant \_\_\_\_\_ Case Number \_\_\_\_\_ OBTS Number \_\_\_\_\_

**SENTENCE**

**(As to Count \_\_)**

The defendant, being personally before this court, accompanied by the defendant’s attorney of record, \_\_\_\_\_, and having been adjudicated guilty herein, and the court having given the defendant an opportunity to be heard and to offer matters in mitigation of sentence, and to show cause why the defendant should not be sentenced as provided by law, and no cause being shown,

(Check one if applicable)

\_\_\_ and the court having on .....(date)..... deferred imposition of sentence until this date

\_\_\_ and the court having previously entered a judgment in this case on .....(date)..... now resentsences the defendant

\_\_\_ and the court having placed the defendant on probation/community control and having subsequently revoked the defendant’s probation/community control

It Is The Sentence Of The Court That:

\_\_\_ The defendant pay a fine of \$\_\_\_, pursuant to section 775.083, Florida Statutes, plus \$\_\_\_ as the 5% surcharge required by section 938.04, Florida Statutes.

\_\_\_ The defendant is hereby committed to the custody of the Department of Corrections.

\_\_\_ The defendant is hereby committed to the custody of the Sheriff of \_\_\_\_\_ County, Florida

\_\_\_ The defendant is sentenced as a youthful offender in accordance with section 958.04, Florida Statutes.

To Be Imprisoned (check one; unmarked sections are inapplicable):

\_\_\_ For a term of natural life.

\_\_\_ For a term of \_\_\_\_\_.

\_\_\_ Said SENTENCE SUSPENDED for a period of \_\_\_\_\_ subject to conditions set forth in this order.

If “split” sentence complete the appropriate paragraph

\_\_\_ Followed by a period of \_\_\_ on probation/community control under the supervision of the Department of Corrections according to the terms and conditions of supervision set forth in a separate order entered herein.

\_\_\_ However, after serving a period of \_\_\_ imprisonment in \_\_\_ the balance of the sentence shall be suspended and the defendant shall be placed on probation/community control for a period of \_\_\_ under supervision of the Department of Corrections according to the terms and conditions of probation/community control set forth in a separate order entered herein.

In the event the defendant is ordered to serve additional split sentences, all incarceration portions shall be satisfied before the defendant begins service of the supervision terms.

### SPECIAL PROVISIONS

(As to Count \_\_\_)

By appropriate notation, the following provisions apply to the sentence imposed:

~~Mandatory/Minimum Provisions:~~

~~Firearm~~

~~\_\_\_ It is further ordered that the 3 year minimum imprisonment provision of section 775.087(2), Florida Statutes, is hereby imposed for the sentence specified in this count.~~

~~Drug Trafficking~~

~~\_\_\_ It is further ordered that the \_\_\_ mandatory minimum imprisonment provision of section 893.135(1), Florida Statutes, is hereby imposed for the sentence specified in this count.~~

~~Controlled Substance Within 1,000 Feet of School~~

~~\_\_\_ It is further ordered that the 3 year minimum imprisonment provision of section 893.13(1)(c)1, Florida Statutes, is hereby imposed for the sentence specified in this count.~~

~~Habitual Felony Offender~~

~~\_\_\_ The defendant is adjudicated a habitual felony offender and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(a), Florida Statutes. The requisite findings by the court are set forth in a separate order or stated on the record in open court.~~

~~Habitual Violent Felony Offender~~



~~\_\_\_\_\_ The defendant is adjudicated a habitual violent felony offender and has been sentenced to an extended term in accordance with the provisions of section 775.084(4)(b), Florida Statutes. A minimum term of \_\_\_\_\_ year(s) must be served prior to release. The requisite findings of the court are set forth in a separate order or stated on the record in open court.~~

#### ~~Law Enforcement Protection Act~~

~~\_\_\_\_\_ It is further ordered that the defendant shall serve a minimum of \_\_\_\_\_ years before release in accordance with section 775.0823, Florida Statutes. (Offenses committed before January 1, 1994.)~~

#### ~~Capital Offense~~

~~\_\_\_\_\_ It is further ordered that the defendant shall serve no less than 25 years in accordance with the provisions of section 775.082(1), Florida Statutes. (Offenses committed before October 1, 1995.)~~

#### ~~Short Barreled Rifle, Shotgun, Machine Gun~~

~~\_\_\_\_\_ It is further ordered that the 5 year minimum provisions of section 790.221(2), Florida Statutes, are hereby imposed for the sentence specified in this count. (Offenses committed before January 1, 1994.)~~

#### ~~Continuing Criminal Enterprise~~

~~\_\_\_\_\_ It is further ordered that the 25 year minimum sentence provisions of section 893.20, Florida Statutes, are hereby imposed for the sentence specified in this count. (Offenses committed before January 1, 1994.)~~

#### ~~Taking a Law Enforcement Officer's Firearm~~

~~\_\_\_\_\_ It is further ordered that the 3 year mandatory minimum imprisonment provision of section 775.0875(1), Florida Statutes, is hereby imposed for the sentence specified in this count. (Offenses committed before January 1, 1994.)~~

#### ~~Sexual Offender/Sexual Predator Determinations:~~

##### ~~Sexual Predator~~

~~The defendant is adjudicated a sexual predator as set forth in section 775.21, Florida Statutes.~~

Sexual Offender

~~The defendant meets the criteria for a sexual offender as set forth in section 943.0435(1)(a)1a., b., c., or d, Florida Statutes.~~

Age of Victim

~~The victim was \_\_\_\_\_ years of age at the time of the offense.~~

Age of Defendant

~~The defendant was \_\_\_\_\_ years of age at the time of the offense.~~

Relationship to Victim

~~The defendant is not the victim's parent or guardian.~~

Sexual Activity [Section 800.04(4), Florida Statutes]

~~The offense \_\_\_\_\_ did \_\_\_\_\_ did not involve sexual activity.~~

Use of Force or Coercion [Section 800.04(4), Florida Statutes]

~~The sexual activity described herein \_\_\_\_\_ did \_\_\_\_\_ did not involve the use of force or coercion.~~

Use of Force or Coercion/unclathed Genitals [Section 800.04(5), Florida Statutes]

~~The molestation \_\_\_\_\_ did \_\_\_\_\_ did not involve unclathed genitals or genital area.~~

~~The molestation \_\_\_\_\_ did \_\_\_\_\_ did not involve the use of force or coercion.~~

Other Provisions:

Criminal Gang Activity

~~\_\_\_\_\_ The felony conviction is for an offense that was found, pursuant to section 874.04, Florida Statutes, to have been committed for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.~~

[Include all findings, sentencing enhancements, and mandatory minimum provisions, as authorized by law and pronounced at sentencing.]

Retention of Jurisdiction

\_\_\_ The court retains jurisdiction over the defendant pursuant to section 947.16(4), Florida Statutes (1983).

Jail Credit

\_\_\_ It is further ordered that the defendant shall be allowed a total of \_\_\_ days as credit for time incarcerated before imposition of this sentence.

CREDIT FOR TIME SERVED  
IN RESENTENCING AFTER  
VIOLATION OF PROBATION  
OR COMMUNITY CONTROL

\_\_\_ It is further ordered that the defendant be allowed \_\_\_ days time served between date of arrest as a violator following release from prison to the date of resentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served and unforfeited gain time previously awarded on case/count \_\_\_\_\_. (Offenses committed before October 1, 1989.)

\_\_\_ It is further ordered that the defendant be allowed \_\_\_ days time served between date of arrest as a violator following release from prison to the date of resentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served on case/count \_\_\_\_\_. (Offenses committed between October 1, 1989, and December 31, 1993.)

\_\_\_ The Court deems the unforfeited gain time previously awarded on the above case/count forfeited under section 948.06(7), Florida Statutes.

\_\_\_ The Court allows unforfeited gain time previously awarded on the above case/count. (Gain time may be subject to forfeiture by the Department of Corrections under section 944.28(1), Florida Statutes.)

\_\_\_ It is further ordered that the defendant be allowed \_\_\_ days time served between date of arrest as a violator following release from prison to the date of resentencing. The Department of Corrections shall apply original jail time credit and shall compute and apply credit for time served only pursuant to section 921.0017, Florida Statutes, on case/count \_\_\_\_\_. (Offenses committed on or after January 1, 1994.)

Consecutive/Concurrent as to Other Counts

It is further ordered that the sentence imposed for this count shall run (check one) \_\_\_ consecutive to \_\_\_ concurrent with the sentence set forth in count \_\_\_ of this case.

Consecutive/Concurrent as to Other Convictions

It is further ordered that the composite term of all sentences imposed for the counts specified in this order shall run (check one) \_\_\_ consecutive to \_\_\_ concurrent with (check one) the following:

\_\_\_ any active sentence being served.

\_\_\_ specific sentences: \_\_\_\_\_.

\_\_\_\_\_

In the event the above sentence is to the Department of Corrections, the Sheriff of \_\_\_\_\_ County, Florida, is hereby ordered and directed to deliver the defendant to the Department of Corrections at the facility designated by the department together with a copy of this judgment and sentence and any other documents specified by Florida Statute.

The defendant in open court was advised of the right to appeal from this sentence by filing notice of appeal within 30 days from this date with the clerk of this court and the defendant's right to the assistance of counsel in taking the appeal at the expense of the state on showing of indigency.

In imposing the above sentence, the court further recommends \_\_\_\_\_

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

DONE AND ORDERED in open court at \_\_\_\_\_ County, Florida, on .....(date).....

\_\_\_\_\_  
Judge

(e) **Form for Order of Probation.**

In the \_\_\_\_\_ Court,  
of \_\_\_\_\_ County, Florida  
Case Number \_\_\_\_\_

State of Florida

v.

\_\_\_\_\_  
Defendant

**ORDER OF PROBATION**

This cause coming on this day to be heard before me, and you, the defendant, \_\_\_\_\_  
\_\_\_\_\_, being now present before me, and you having

(check one)

\_\_\_ entered a plea of guilty to

\_\_\_ entered a plea of nolo contendere to

\_\_\_ been found guilty by jury verdict of

\_\_\_ been found guilty by the court trying the case without a jury of the offense(s) of \_\_\_

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

**SECTION 1: Judgment Of Guilt**

\_\_\_ The Court hereby adjudges you to be guilty of the above offense(s).

Now, therefore, it is ordered and adjudged that the imposition of sentence is hereby withheld and that you be placed on probation for a period of \_\_\_\_\_ under the supervision of the Department of Corrections, subject to Florida law.

**SECTION 2: Order Withholding Adjudication**

\_\_\_ Now, therefore, it is ordered and adjudged that the adjudication of guilt is hereby withheld and that you be placed on probation for a period of \_\_\_ under the supervision of the Department of Corrections, subject to Florida law.

### SECTION 3: Probation During Portion Of Sentence

It is hereby ordered and adjudged that you be

\_\_\_ committed to the Department of Corrections

\_\_\_ confined in the County Jail

for a term of \_\_\_ with credit for \_\_\_ jail time. After you have served \_\_\_ of the term you shall be placed on probation for a period of \_\_\_ under the supervision of the Department of Corrections, subject to Florida law.

\_\_\_ confined in the County Jail

for a term of \_\_\_ with credit for \_\_\_ jail time, as a special condition of probation.

It is further ordered that you shall comply with the following conditions of probation during the probationary period:;

~~(1) — Not later than the fifth day of each month, you will make a full and truthful report to your officer on the form provided for that purpose.~~

~~(2) — You will pay the State of Florida the amount of \$ \_\_\_\_\_ per month toward the cost of your supervision, unless otherwise waived in compliance with Florida Statutes.~~

~~(3) — You will not change your residence or employment or leave the county of your residence without first procuring the consent of your officer.~~

~~(4) — You will not possess, carry, or own any firearm. You will not possess, carry, or own any weapons without first procuring the consent of your officer.~~

~~(5) — You will live without violating the law. A conviction in a court of law shall not be necessary for such a violation to constitute a violation of your probation.~~

~~(6) — You will not associate with any person engaged in any criminal activity.~~

~~(7) — You will not use intoxicants to excess or possess any drugs or narcotics unless prescribed by a physician. Nor will you visit places where intoxicants, drugs, or other dangerous substances are unlawfully sold, dispensed, or used.~~

~~(8) — You will work diligently at a lawful occupation, advise your employer of your probation status, and support any dependents to the best of your ability, as directed by your officer.~~

~~(9) — You will promptly and truthfully answer all inquiries directed to you by the court or the officer, and allow your officer to visit in your home, at your employment site, or elsewhere, and you will comply with all instructions your officer may give you.~~

~~(10) — You will pay restitution, costs, and/or fees in accordance with the attached orders.~~

~~(11) — You will report in person within 72 hours of your release from confinement to the probation office in \_\_\_\_\_ County, Florida, unless otherwise instructed by your officer. (This condition applies only if section 3 on the previous page is checked.) Otherwise, you must report immediately to the probation office located at \_\_\_\_\_.~~

~~(12) — You shall submit to the drawing of blood or other biological specimens as required by section 943.325, Florida Statutes.~~

~~(13) — You shall submit to the taking of a digitized photograph as required by section 948.03, Florida Statutes.~~

### **SPECIAL CONDITIONS**

~~\_\_\_\_\_ You must undergo a (drug/alcohol) evaluation and, if treatment is deemed necessary, you must successfully complete the treatment.~~

~~\_\_\_\_\_ You will submit to urinalysis, breathalyzer, or blood tests at any time requested by your officer, or the professional staff of any treatment center where you are receiving treatment, to determine possible use of alcohol, drugs, or controlled substances. You shall be required to pay for the tests unless payment is waived by your officer.~~

~~\_\_\_\_\_ You must undergo a mental health evaluation, and if treatment is deemed necessary, you must successfully complete the treatment.~~

~~\_\_\_\_\_ You will not associate with \_\_\_\_\_ during the period of probation.~~

~~\_\_\_\_\_ You will not associate with other criminal gang members or associates, except as authorized by law enforcement officials, prosecutorial authorities, or the court, for the purpose of aiding in the investigation of criminal activity.~~

~~\_\_\_\_\_ You will not contact \_\_\_\_\_ during the period of probation.~~

~~\_\_\_\_\_ You will attend and successfully complete an approved batterers' intervention program.~~

GENERAL CONDITIONS: [List the general conditions of probation pursuant to section 948.03, Florida Statutes.]

SPECIAL CONDITIONS: [List the special conditions of probation as orally pronounced and authorized by law.]

Other \_\_\_\_\_  
\_\_\_\_\_

(Use the space below for additional conditions as necessary.)

~~You are hereby placed on notice that the court may at any time rescind or modify any of the conditions of your probation, or may extend the period of probation as authorized by law, or may discharge you from further supervision. If you violate any of the conditions of your probation, you may be arrested and the court may revoke your probation, adjudicate you guilty if adjudication of guilt was withheld, and impose any sentence that it might have imposed before placing you on probation or require you to serve the balance of the sentence. The court may rescind or modify at any time the terms and conditions imposed by it upon the probationer.~~

It is further ordered that when you have been instructed as to the conditions of probation, you shall be released from custody if you are in custody, and if you are at liberty on bond, the sureties thereon shall stand discharged from liability. ~~(This paragraph applies only if section 1 or section 2 is checked.)~~

It is further ordered that the clerk of this court file this order in the clerk's office and provide certified copies of same to the officer for use in compliance with the requirements of law.

DONE AND ORDERED, on .....(date).....

\_\_\_\_\_  
Judge

I acknowledge receipt of a certified copy of this order. The conditions have been explained to me and I agree to abide by them.

.....(date).....

Probationer \_\_\_\_\_

Instructed by \_\_\_\_\_

Original:  
Certified Copies:

Clerk of the Court  
Probationer



Florida Department of Corrections,  
Probation and Parole Service

**(f) Form for Community Control.**

In the \_\_\_\_\_ Court,  
of \_\_\_\_\_ County, Florida  
Case Number \_\_\_\_\_

State of Florida

v.

\_\_\_\_\_  
Defendant

**ORDER OF COMMUNITY CONTROL**

This cause coming on this day to be heard before me, and you, the defendant, \_\_\_\_\_  
\_\_\_\_\_, being now present before me, and you having

(check one)

- entered a plea of guilty to
  - entered a plea of nolo contendere to
  - been found guilty by jury verdict of
  - been found guilty by the court trying the case without a jury of the offense(s) of \_\_\_\_\_
- \_\_\_\_\_  
\_\_\_\_\_

**SECTION 1: Judgment of Guilt**

The court hereby adjudges you to be guilty of the above offense(s).

Now, therefore, it is ordered and adjudged that you be placed on community control for a period of \_\_\_\_\_ under the supervision of the Department of Corrections, subject to Florida law.

**SECTION 2: Order Withholding Adjudication**

Now, therefore, it is ordered and adjudged that the adjudication of guilt is hereby withheld and that you be placed on Community Control for a period of \_\_\_\_\_ under the supervision of the Department of Corrections, subject to Florida law.

SECTION 3: Community Control During Portion Of Sentence

It is hereby ordered and adjudged that you be

\_\_\_ committed to the Department of Corrections

\_\_\_ confined in the County Jail

for a term of \_\_\_\_\_ with credit for \_\_\_\_\_ jail time. After you have served \_\_\_ of the term, you shall be placed on community control for a period of \_\_\_\_\_ under the supervision of the Department of Corrections, subject to Florida law.

\_\_\_ confined in the County Jail

for a term of \_\_\_\_\_ with credit for \_\_\_\_\_ jail time, as a special condition of community control.

It is further ordered that you shall comply with the following conditions of community control during the community control period:;

~~(1) — Not later than the fifth day of each month, you will make a full and truthful report to your officer on the form provided for that purpose.~~

~~(2) — You will pay the State of Florida the amount of \$ \_\_\_\_\_ per month toward the cost of your supervision, unless otherwise waived in compliance with Florida Statutes.~~

~~(3) — You will not change your residence or employment or leave the county of your residence without first procuring the consent of your officer.~~

~~(4) — You will not possess, carry, or own any firearm. You will not possess, carry, or own other weapons without first procuring the consent of your officer.~~

~~(5) — You will live without violating the law. A conviction in a court of law shall not be necessary for such a violation to constitute a violation of your community control.~~

~~(6) — You will not associate with any person engaged in any criminal activity.~~

~~(7) — You will not use intoxicants to excess or possess any drugs or narcotics unless prescribed by a physician. Nor will you visit places where intoxicants, drugs, or other dangerous substances are unlawfully sold, dispensed, or used.~~

~~(8) — You will work diligently at a lawful occupation, advise your employer of your community control status, and support any dependents to the best of your ability as directed by your officer.~~

~~(9) — You will promptly and truthfully answer all inquiries directed to you by the court or your officer and allow your officer to visit in your home, at your employment site or elsewhere, and you will comply with all instructions your officer may give you.~~

~~(10) — You will report to your officer at least 4 times a week, or, if unemployed full time, daily.~~

~~(11) — You will perform \_\_\_\_\_ hours of public service work as directed by your officer.~~

~~(12) — You will remain confined to your approved residence except for one half hour before and after your approved employment, public service work, or any other special activities approved by your officer.~~

~~(13) — You will pay restitution, costs, and/or fees in accordance with the attached orders.~~

~~(14) — You will report in person within 72 hours of your release from confinement to the probation office in \_\_\_\_\_ County, Florida, unless otherwise instructed by your officer. (This condition applies only if section 3 on the previous page is checked.) Otherwise, you must report immediately to the probation office located at \_\_\_\_\_.~~

~~(15) — You shall submit to the drawing of blood or other biological specimens as required by section 943.325, Florida Statutes.~~

~~(16) — You shall submit to the taking of a digitized photograph as required by section 948.101, Florida Statutes.~~

### **SPECIAL CONDITIONS**

~~\_\_\_\_\_ You must undergo a (drug/alcohol) evaluation, and if treatment is deemed necessary, you must successfully complete the treatment.~~

~~\_\_\_\_\_ You must undergo a mental health evaluation, and if treatment is deemed necessary, you must successfully complete the treatment.~~

~~\_\_\_\_\_ You will submit to urinalysis, breathalyzer, or blood tests at any time requested by your officer, or the professional staff of any treatment center where you are receiving treatment, to determine possible use of alcohol, drugs, or controlled substances. You shall be required to pay for the tests unless payment is waived by your officer.~~

~~\_\_\_\_\_ You will not associate with \_\_\_\_\_ during the period of community control.~~

~~\_\_\_\_\_ You will not associate with other criminal gang members or associates, except as authorized by law enforcement officials, prosecutorial authorities, or the court, for the purpose of aiding in the investigation of criminal activity.~~

~~\_\_\_\_\_ You will not contact \_\_\_\_\_ during the period of community control.~~

~~\_\_\_\_\_ You will maintain an hourly accounting of all your activities on a daily log which you will submit to your officer on request.~~

~~\_\_\_\_\_ You will participate in self-improvement programs as determined by the court or your officer.~~

~~\_\_\_\_\_ You will submit to electronic monitoring of your whereabouts as required by the Florida Department of Corrections.~~

~~\_\_\_\_\_ You will attend and successfully complete an approved batterers' intervention program.~~

~~\_\_\_\_\_ Other \_\_\_\_\_~~

~~\_\_\_\_\_~~

~~(Use the space below for additional conditions as necessary.)~~

GENERAL CONDITIONS: [List the general conditions of ~~probation~~community control pursuant to section ~~948.03~~948.101, Florida Statutes.]

SPECIAL CONDITIONS: [List the special conditions of ~~probation~~community control as orally pronounced and authorized by law.]

~~You are hereby placed on notice that the court may at any time rescind or modify any of the conditions of your community control, or may extend the period of community control as authorized by law, or may discharge you from further supervision or return you to a program of regular probation supervision. If you violate any of the conditions and sanctions of your community control, you may be arrested, and the court may adjudicate you guilty if adjudication of guilt was withheld, revoke your community control, and impose any sentence that it might have imposed before placing you on community control. The court may rescind or modify at any time the terms and conditions imposed by it upon the ~~probationer~~community controlee.~~

It is further ordered that when you have reported to your officer and have been instructed as to the conditions of community control, you shall be released from custody if you are in custody, and if you are at liberty on bond, the sureties thereon shall stand discharged from liability. ~~(This paragraph applies only if section 1 or section 2 is checked.)~~

It is further ordered that the clerk of this court file this order in the clerk's office, and forthwith provide certified copies of same to the officer for use in compliance with the requirements of law.

DONE AND ORDERED, on .....(date).....

\_\_\_\_\_  
Judge

I acknowledge receipt of a certified copy of this order. The conditions have been explained to me and I agree to abide by them.

.....(date).....

Community controller \_\_\_\_\_

Instructed by \_\_\_\_\_

Original:  
Certified Copies:

Clerk of the Court  
Community Controlee  
Florida Department of Corrections,  
Probation and Parole Service

**(g) Form for Restitution Order.**

In the Circuit Court,  
\_\_\_\_\_ Judicial Circuit, in and for  
\_\_\_\_\_ County, Florida  
Division \_\_\_\_\_  
Case Number \_\_\_\_\_

State of Florida

v.

\_\_\_\_\_  
Defendant

**RESTITUTION ORDER**

By appropriate notation, the following provisions apply to the sentence imposed in this section:

- \_\_\_ Restitution is not ordered as it is not applicable.
- \_\_\_ Restitution is not ordered due to the financial resources of the defendant.
- \_\_\_ Restitution is not ordered due to \_\_\_\_\_.
- \_\_\_ Due to the financial resources of the defendant, restitution of a portion of the damages is ordered as prescribed below.
- \_\_\_ Restitution is ordered as prescribed below.
- \_\_\_ Restitution is ordered for the following victim. (Victim refers to the aggrieved party, aggrieved party's estate, or aggrieved party's next of kin if the aggrieved party is deceased as a result of the offense. In lieu of the victim's address and phone number, the address and phone number of the prosecuting attorney, victim's attorney, or victim advocate may be used.)

\_\_\_\_\_  
Name of victim

\_\_\_\_\_  
Name of attorney or advocate if applicable

Address \_\_\_\_\_

City, State, and Zip Code \_\_\_\_\_

Phone Number (of prosecuting attorney, victim's attorney, or victim advocate) \_\_\_\_\_

~~\_\_\_\_\_ The sum of \$ \_\_\_ for medical and related services and devices relating to physical, psychiatric, and psychological care, including non-medical care and treatment rendered in accordance with a recognized method of healing.~~

~~\_\_\_\_\_ The sum of \$ \_\_\_ for necessary physical and occupational therapy and rehabilitation.~~

~~\_\_\_\_\_ The sum of \$ \_\_\_ to reimburse the victim for income lost as a result of the offense.~~

~~\_\_\_\_\_ The sum of \$ \_\_\_ for necessary funeral and related services if the offense resulted in bodily injury resulting in the death of the victim.~~

~~\_\_\_\_\_ The sum of \$ \_\_\_ for damages resulting from the offense.~~

~~\_\_\_\_\_ The sum of \$ \_\_\_ for \_\_\_\_\_~~

~~\_\_\_\_\_~~

~~It is further ordered that the defendant fulfill restitution obligations in the following manner:~~

~~\_\_\_\_\_ Total monetary restitution is determined to be \$ \_\_\_ to be paid at a rate of \$ \_\_\_ per (check one) \_\_\_ month \_\_\_ week \_\_\_ other (specify) \_\_\_\_\_ and is to be paid (check one) \_\_\_\_\_ through the clerk of the circuit court, \_\_\_ to the victim's designee, or \_\_\_ through the Department of Corrections, with an additional 4% fee of \$ \_\_\_ for handling, processing, and forwarding the restitution to the victim(s).~~

~~\_\_\_\_\_ For which sum let execution issue.~~

[Include all restitution and findings, as authorized by law and pronounced at sentencing.]

DONE AND ORDERED at \_\_\_\_\_ County, Florida, on .....(date).....

\_\_\_\_\_  
Judge  
Original: Clerk of the Court  
Certified Copy: Victim

### Committee Note

**1980 Amendment.** The proposed changes to rule 3.986 are housekeeping in nature. References to the Department of Offender Rehabilitation have been changed to Department of Corrections to reflect a legislative change. See section 20.315, Florida Statutes (Supp. 1978). The reference to "hard labor" has been stricken as the courts have consistently held such a condition of sentence is not authorized by statute. See, *e.g.*, *McDonald v. State*, 321 So. 2d 453, 458 (Fla. 4th DCA 1975).



