**IN THE \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ COURT,**

*(Justice Court, Justice Court of Record, Municipal Court, City Court, City Court of Record)*

 **COUNTY OF \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, STATE OF MONTANA**

 *(County)*

|  |  |
| --- | --- |
| State of Montanavs. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Defendant. | Docket No: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_SENTENCING SCRIPT**CRIMINAL ACTION** |

Good morning / Afternoon! This is the time set for sentencing in the case of the State of Montana versus \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. The Defendant was tried by Jury / tried by the Court / pled guilty or nolo contendere to the charge of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ in violation of Section \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, M.C.A.

Is there any reason that the Court should not impose sentence at this time? (Asked of both the prosecutor and the defense. Generally, the answer is “no” as the sentencing would have been previously set.)

Does the City / State have a recommendation for the sentence? (It may be helpful to take notes.)

Does the Defense have a recommendation for the sentence? (It may be helpful to take notes.)

If there is a written plea agreement, you may agree to sentence exactly to the recommendations listed. You are not bound to accept the plea agreement. Section 46-12-211 MCA sets out the criteria for plea agreements.

Unless the fine is mandatory, the Court must make an independent inquiry into the Defendant’s ability to pay before imposing a fine.

Pronounce sentence in open court. Verify that the Defendant understands exactly what the sentence is. How the sentence is pronounced is the foundation for any future revocation or contempt proceedings. If, for example, you do not tell the Defendant that completion of the ACT program is required and do not set up dates to enroll or comply, **you cannot revoke any sentence** for a failure to attend ACT classes.

It is extremely important that you record the sentence exactly as you have recited it in Court. Although we are not “courts of record”, an accurate docket is required per statute and for enhancement proceedings. Our dockets are being scrutinized more often all the time by higher courts and other parties.

 **The sentence of the Court is as follows: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.**

Again, be certain that each facet of the sentence is clearly stated to the Defendant and that the Defendant understands the sentence. It is recommended that you require the Defendant to sign the daily appearance sheet, minutes of appearance, or some form acknowledging the sentence.