

Arraignment on the Charge of Minor Consuming or Possessing Alcohol

The following is the text of the speech that was made by the judge or presented by video in court at your arraignment on this charge. You may want to read it again.

You are in District Court today because you have been charged with minor consuming alcohol. This charge is also called an MCA. Drinking alcohol is a violation of state law for individuals under twenty-one under most conditions. Some of you may be charged with other offenses that are being handled in juvenile court. This court will not address the juvenile court charges.

In the first part of this video we will instruct you on your legal rights concerning the charges against you. In the second part of the video we will talk about the possible long-term consequences if you continue to drink alcohol before you turn twenty-one.

You will make some important decisions in court today, so please watch and listen to this presentation carefully. If you don't understand your choices, please don't be afraid to ask for more information.

First and second MCAs involve serious consequences but they do not involve jail time. A third MCA is more serious. It is a Class B misdemeanor and can involve jail time.

You have important legal rights.

First, you have the right to remain silent. This means that you do not have to make any statements or answer any questions. Remember that any statements that you make can be used against you at trial. You have a right to have a lawyer help you with your case or answer questions for you.

The judge will ask you how you will plead to the charge of minor consuming alcohol. You have three choices: **not guilty**, **guilty**, and **no contest**. Choosing a plea is an important decision.

If you plead **not guilty** you may have a trial. The reasons for pleading **not guilty** can include the following:

First, it can mean that you did not consume alcohol illegally.

Or – it can mean that you want to present a legal defense or excuse to the charge, and you want time to talk with an attorney.

Or – it can mean that you aren't sure how you want to plead now and you want to think about it some more and possibly talk with an attorney or another trusted person.

Or – pleading **not guilty** can mean that you want to make the prosecution – which represents the state – present its case and prove in trial that you are guilty beyond a reasonable doubt.

If you plead **not guilty** the judge will schedule a trial. At a trial a jury or judge will decide whether you are guilty or not based on the law and the facts that are presented.

There are two other choices: You can plead **guilty** or **no contest**.

If you plead **guilty** or **no contest**, you will be giving up your right to a trial and your right to make the state prove the charge beyond a reasonable doubt at trial. You will be giving up the right to have a jury or judge decide whether you are guilty. You will be giving up the right to appeal any trial verdict. If you plead **guilty** or **no contest**, the judge will sentence you today. In other words, the judge will tell you what your penalty will be for this offense and what you will have to do.

There is some difference between pleading **guilty** and pleading **no contest**. When you plead **guilty**, you are admitting that the facts set out in the charge against you are true. If you plead **no contest**, you are not admitting anything about the facts. You are only saying that you will not fight the charges against you. With this plea, you understand that you will receive a sentence just as if you had pleaded **guilty** or if you had been found guilty at trial.

You have the right to talk with a lawyer before you make a decision about your plea.

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

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

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

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 without your permission.

Your lawyer will come to court with you and speak on your behalf. Your lawyer will prepare and file legal paperwork for you.

Your lawyer will examine the charges against you to make sure they are in proper form. Because the lawyer is trained in the law he or she may see mistakes in the legal paperwork which you do not see.

Your lawyer can advise you about how you should plead.

Your lawyer will make sure all your rights are protected in court and that no improper evidence is brought against you.

Your lawyer will present your case to the court in the way most favorable to you.

Your lawyer can sometimes locate witnesses and evidence that may be helpful to you.

Your lawyer will be able to examine documents or other materials that the state might use as evidence against you at trial.

Your lawyer can talk with the prosecutor about possible changes in the charges or about reaching an agreement that might help you.

Even if you think that you want to plead **guilty** or **no contest**, a lawyer can help by giving favorable information about you to the court and by making an argument for you before the judge tells you your sentence.

Because your right to a lawyer is so important, you can hire your own – or, if you cannot afford to hire one, the court will appoint a lawyer for you. If you ask for an appointed lawyer, the judge will place you under oath and ask questions about your finances. If you are under 18, the judge will ask your parent or guardian the questions. If the court appoints a lawyer, you may be required to repay part of the cost.

If you wish to plead **not guilty**, you will have a public trial within 120 days after the point you received the charges against you. A trial is a hearing in which a jury or a judge will decide if you are guilty or not guilty.

For the charges now against you, you have the right to a trial by a jury of six people or before a judge with no jury. A jury is a group of citizens who will hear the evidence and decide whether you are guilty or not guilty. They will decide based on the facts that are presented in court. They can only convict you if they are persuaded by proof beyond a reasonable doubt. This is a very high level of proof.

At trial, you have the right to listen to and see the people who testify against you. 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 document called a subpoena that requires your witnesses to appear in court.

You will have a choice about whether you want to say anything in your own defense or not. If you choose to remain silent, this cannot be used against you. A lawyer can help you decide whether or not to speak.

If you choose to go to trial, you have the right to disqualify the first judge assigned to your case within five days without giving any reason. In other words, you can request that a different judge hear your case. After five days, you would have to give a good reason to disqualify a judge.

If a trial jury finds you not guilty, you will be free of the charges against you. If you are found guilty, you will receive a sentence.

If you are NOT a United States citizen, a plea of guilty or no contest may affect your immigration status. You should speak with an attorney, consular official or other knowledgeable person before deciding upon your plea. The judge in this court cannot answer questions about your immigration status.

To repeat: the three possible pleas are **not guilty**, **guilty**, and **no contest**.

If you plead **guilty** or **no contest**, you will receive your sentence immediately. Alaska law provides specific penalties for those convicted of minor consuming alcohol. The penalties are the same whether you plead guilty or no contest. The penalties will include a probationary period during which you must complete alcohol counseling and other conditions of your sentence.

It is important that you understand that you must complete all parts of your sentence, including any alcohol education program. You will be given a sentencing sheet that lists everything you must do. If you fail to comply with any of the requirements, the court may issue a bench warrant for your arrest. If the judge revokes your driver's license or suspends your privilege to get a license, the Division of Motor Vehicles will require proof that you have completed alcohol education or treatment before you can get a license.

Some of you are here because you may have failed to complete your sentence or otherwise violated the terms of your probation. In other words, you did not do what you were supposed to do when the court put you on probation. The prosecutor has filed a petition to revoke your probation. If you admit that you did not complete a program that was ordered or otherwise have violated the terms of your probation, the judge might reassign you to complete the program or impose a part of your sentence that was originally suspended.

If you do not agree that you violated probation the judge will schedule a hearing. You have the right to an attorney for the hearing. There is no jury. The judge will decide whether you violated probation after hearing evidence from the prosecutor and you or your attorney.

It is important that you understand all of the rights and responsibilities explained in this video. If you have any questions about the charges against you or your rights or the meaning of the three possible pleas, or the sentence or penalties you face, please ask the judge when your case is called or ask to speak with an attorney.