

Requirements for Pleas in Absentia

1. Must include a **notarized** affidavit from the Defendant, including an accurate case number(s).
2. The Defendant's affidavit must indicate where the Defendant is located. If outside of the court's jurisdiction, it should indicate whether the State consents to the plea in absentia.
3. The affidavit's notary should be licensed in the state where the Defendant is currently located.
4. The affidavit should indicate whether the Defendant understands that he/she will either be adjudicated guilty or granted a withhold of adjudication. If the Court does not accept a request for a withhold of adjudication, the Defendant understands that he/she will be adjudicated guilty.
5. The affidavit must state that the Defendant is entering the plea freely and voluntarily.
6. The affidavit must indicate that the Defendant:
 - Understands the nature of the charge, and must include a designation of the specific charge and whether it is a first degree or second degree misdemeanor, and the minimum and maximum sentences.
 - Understands the difference between a plea of guilty, not guilty and no contest.
 - Understands the plea form, and that he/she read it before he/she signed it.
 - Is not under the influence of any drugs or alcohol which would affect the Defendant's ability to understand what the Defendant is doing.
 - Understands that he/she is waiving the right to a trial by jury.
 - Understands that he/she has the right to an attorney, and the right to have an attorney appointed if the Defendant cannot afford one.

- Is satisfied with the attorney's representation.
- Understands that he/she is waiving the right to require the State to prove guilt beyond a reasonable doubt.
- Understands that he/she is waiving the right to question witnesses at trial.
- Understands that he/she is waiving the right to call witnesses and subpoena witnesses.
- Understands that he/she is waiving the right to the presumption of innocence until the State proves guilt beyond a reasonable doubt.
- Understands that he/she is waiving the right to remain silent.
- Understands that he/she is waiving the right to testify and have the defendant's testimony considered by the same standards as other witnesses.
- Understands that he/she is giving up the right to an appeal unless it is an illegal sentence or objects to jurisdiction.

7. The affidavit should reflect the Defendant's signature is notarized, and it submitted by the attorney of record.
8. If probation is a component of the sentence, the affidavit should indicate the term of probation, whether it is by mail-in, whether the county for the probation is to be transferred, whether the terms of probation comply with the Interstate Compact, and whether early termination of probation is permitted.
9. The affidavit must indicate the exact amount of any fine, and the corresponding surcharge amount.
10. The affidavit must indicate the exact amount of the court costs. Attorneys may call the clerk to request this information.

11. If DUI-related, the affidavit must indicate which DUI School level is being imposed, and that the defendant must follow all recommendations for counseling .
12. The affidavit must indicate whether the Victim Impact Panel or equivalent is being imposed.
13. The affidavit must indicate whether a 10-day vehicle impound is being imposed, or whether the defendant qualifies for an exemption.
14. The affidavit must indicate whether there is a driver's license revocation, and/or whether there is a restriction for business-purposes-only.
15. The affidavit must indicate whether there is a requirement for an ignition interlock device.
16. The affidavit must indicate whether there is a requirement for community service, and/or a buyout since the Defendant is out of the jurisdiction?
17. Indicate whether there is intensive supervision as a condition of probation, and whether the defendant will be ordered to not possess any drugs or alcohol, with random urine screening at probation's discretion and at the Defendant's expense, with no positive or diluted screens.
18. The affidavit must indicate the \$50.00 cost of prosecution.
19. The affidavit must indicate that if the Defendant is not a U.S. citizen, by entering the plea, it will subject the defendant to deportation.
20. The affidavit must indicate that if the Defendant has been previously convicted of a sexually violent offense or a sexual motivated offense, entering this plea will subject him/her to involuntary civil commitment.
21. If fingerprints are required, the **print card must indicate where and who (a certified law enforcement officer/agency) took the prints.**
22. If there are any civil citations that were intended to be included with the plea, the specific terms of that agreement must be clearly indicated in the affidavit.
23. The affidavit must indicate whether there is a cash bond that is to be applied to outstanding monetary commitments.
24. Best Practices would be to also include the **Hendry County standard plea form with a thumbprint** from the Defendant.
25. The documentation for a plea in absentia must be provided to the State no less than three days prior to the court appearance, so that the State may review and ascertain if it is in agreement to its form and substance.