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**To: ASSIGNMENT JUDGES
CRIMINAL PRESIDING JUDGES**

From: GLENN A. GRANT, J.A.D. *GAG*

Subj: CRIMINAL PLEA FORMS

Date: OCTOBER 15, 2013

Directive # 06-13
(Modifies Directive #14-08)

[Questions and/or comments may be directed to 609-292-4638.]

This Directive promulgates: (1) a revised *Supplemental Plea Form for Graves Act Cases*; (2) a revised *Supplemental Plea Form for Theft of a Motor Vehicle or Unlawful Taking of a Motor Vehicle*; and (3) a new form entitled *Notice to Defendant Pursuant to N.J.S.A. 2C:29-2b – Mandatory Suspension of Driving Privileges*, as recommended by the Supreme Court Criminal Practice Committee. These forms are being promulgated pursuant to *Rule 3:9-2*, which provides that plea forms are to be in a form “prescribed by the Administrative Director of the Courts.”

You should begin using these forms as soon as possible. English and English-Spanish versions of all forms promulgated by this Directive are attached. Each form also will be posted separately on the forms page of the Judiciary Internet website at <http://www.judiciary.state.nj.us/forms.htm>.

Plea Forms

1. Supplemental Plea Form for Graves Act Cases **Attachment 1**
(Supersedes Attachment 11 of Directive #14-08)

The *Supplemental Plea Form for Graves Act Cases* is being updated to conform to amendments to N.J.S.A. 2C:43-6c, 2C:43-6g and 2C:39-5. Question #2 on the form is also being revised to include a space to indicate the type of firearm that was involved. The revisions list the applicable offenses through July 31, 2013.

On August 8, 2013, the Governor signed S-2804 into law as L. 2013, c. 133, which revises the *Graves Act* statute. The revisions, which were effective immediately, provide that if the defendant is convicted of unlawful possession of an assault firearm, N.J.S.A. 2C:39-5(f), a mandatory minimum term pursuant to the *Graves Act* shall be imposed. The law also provides that a mandatory

minimum term pursuant to the *Graves Act* shall not be imposed if the defendant is convicted of unlawful possession of an air gun, spring gun, or BB gun pursuant to N.J.S.A. 2C:39-5b(2); or possession of a rifle or shotgun without first obtaining a firearms purchaser identification card, pursuant to N.J.S.A. 2C:39-5c(1); or unlawful possession of a loaded rifle or shotgun, pursuant to N.J.S.A. 2C:39-5c(2), if the rifle or shotgun is an air gun, spring gun or BB gun. Additional spaces have been included on the revised form to use for the new offense and exclusions. Further revisions may be forthcoming once the Criminal Practice Committee has made its recommendations to address the provisions of the new law.

2. **Supplemental Plea Form for Eluding, N.J.S.A. 2C:29-2b Theft of a Motor Vehicle, or Unlawful Taking of a Motor Vehicle, N.J.S.A. 2C:20-2.1** Attachment 2
(Supersedes Attachment 7 of Directive #14-08)

The *Supplemental Plea Form for Theft of a Motor Vehicle, or Unlawful Taking of a Motor Vehicle, N.J.S.A. 2C:20-2.1* is being revised to change the title of the form so as to include eluding, N.J.S.A. 2C:29-2b; and to add the range for a driver's license suspension that must be imposed when a defendant is convicted of eluding.

3. **Notice to Defendant Pursuant to N.J.S.A. 2C:29-2b Mandatory Suspension of Driving Privileges** Attachment 3
(New Form)

The new Notice form, *Notice to Defendant Pursuant to N.J.S.A. 2C:29-2b, Mandatory Suspension of Driving Privileges*, is being promulgated to inform defendants who have been convicted of eluding, either by trial or guilty plea, of possible future penalties for individuals who are convicted of operating a motor vehicle while their driver's license is suspended as a result of an eluding conviction. This notification is required by N.J.S.A. 2C:29-2b.

Any questions or comments regarding this Directive, or the appended forms, should be directed to Assistant Director Joseph J. Barraco at (609) 292-4638.

G.A.G

Attachment

cc: Chief Justice Stuart Rabner
Acting Attorney General John Hoffman
Public Defender Joseph Krakora
Criminal Division Judges
Elie Honig, Director, DCJ
County Prosecutors
Steven D. Bonville, Chief of Staff

AOC Directors and Assistant Directors
Trial Court Administrators
Susan Callaghan, Chief, Criminal Practice
Criminal Division Managers
Assistant Criminal Division Managers
Gurpreet M. Singh, Special Assistant
Melaney Payne, Criminal Practice

ATTACHMENT 1

Supplemental Plea Form for Graves Act Cases

English and English-Spanish



New Jersey Judiciary
Supplemental Plea Form for Graves Act Offenses (N.J.S.A. 2C: 43-6c)

You are pleading to a Graves Act offense. This means:

- A. You are pleading guilty to possession of a firearm with intent to use it against the person of another or to murder, aggravated manslaughter, manslaughter, aggravated assault, kidnapping, aggravated sexual assault, aggravated criminal sexual contact, robbery, burglary or escape; or if one of the following offenses occurred on or after January 13, 2008: possession of a shotgun, *N.J.S.A. 2C:39-3b*; possession of a defaced weapon, *N.J.S.A. 2C:39-3d*; possession of a weapon (firearm) for an unlawful purpose, *N.J.S.A. 2C:39-4a*; possession of a firearm while in the course of committing a CDS offense or other offenses, *N.J.S.A. 2C:39-4.1a*; unlawful possession of a machine gun, handgun, rifle or shotgun, *N.J.S.A. 2C:39-5a, b or c*; certain persons not to have weapons, *N.J.S.A. 2C:39-7*; or manufacture, transport, disposition and defacement of machine guns, sawed-off shotguns, defaced firearms or assault firearms. *N.J.S.A. 2C:39-9a, b, e or g*, or the following crime(s):

- 1) _____
- 2) _____
- 3) _____

AND/OR

- B. You are also admitting, by virtue of this plea, that while in the course of committing or attempting to commit one of the crimes, including the immediate flight therefrom, you used or were in possession of a firearm.

1. Do you understand that because of your plea of guilty to _____ [Yes] [No]

you will be subject to a minimum period of time before you will be eligible for parole (a parole ineligibility term) under the Graves Act (as set forth in question 7 on the Main Plea Form)?

2. Do you understand that by pleading guilty and admitting that you used or were in possession of a firearm that is a _____, (type of firearm) while in the course of committing or attempting to commit one of the crimes, you are waiving your right to have a jury determine, beyond a reasonable doubt, that you used or possessed a firearm during the course of committing or attempting to commit one of the crimes? [Yes] [No]

3. Does any other mandatory sentencing provision apply to the Graves Act count that provides for a greater period of parole ineligibility (e.g., NERA, Three Strikes, Murder)? [Yes] [No] [NA]

If so, which one?

Date _____ Defendant _____

Defense Attorney _____

Prosecutor _____



Poder Judicial de Nueva Jersey
New Jersey Judiciary

Formulario suplementario para una declaración de culpabilidad por delitos
según la Ley Graves (N.J.S.A. 2C: 43-6c)
Supplemental Plea Form for Graves Act Offenses (N.J.S.A. 2C: 43-6c)

Usted se está declarando culpable de un delito según la Ley Graves. Eso significa que:

You are pleading to a Graves Act offense. This means:

- A. Se declara culpable de la posesión de un arma de fuego con la intención de usarla contra otra persona, o de homicidio, homicidio impremeditado con agravantes, homicidio impremeditado, agresión con agravantes, rapto, agresión sexual con agravantes, abuso deshonesto con agravantes, robo, allanamiento con fines delictivos, o fuga; o si uno de los siguientes delitos ocurrió el 13 de enero del 2008 o después de esa fecha: tenencia de una escopeta, N.J.S.A. 2C:39-3b; tenencia de un arma desfigurada, N.J.S.A. 2C:39-3d; tenencia de un arma (de fuego) para un propósito ilícito, N.J.S.A. 2C:39-4a; tenencia de un arma de fuego durante la comisión de un delito de sustancia peligrosa controlada (CDS) u otros delitos, N.J.S.A. 2C:39-4.1a; posesión ilícita de una ametralladora, pistola, rifle o escopeta, N.J.S.A. 2C:39-5a, b o c; ciertas personas que no tienen permiso para tener armas, N.J.S.A. 2C:39-7; o la fabricación, el transporte, la disposición o desfiguración de ametralladoras, escopetas recortadas, armas de fuego desfiguradas o armas de fuego de asalto, N.J.S.A. 2C:39-9a, b, e o g; o los siguientes delitos:

You are pleading guilty to possession of a firearm with intent to use it against the person of another or to murder, aggravated manslaughter, manslaughter, aggravated assault, kidnapping, aggravated sexual assault, aggravated criminal sexual contact, robbery, burglary or escape; or if one of the following offenses occurred on or after January 13, 2008: possession of a shotgun, N.J.S.A. 2C:39-3b; possession of a defaced weapon, N.J.S.A. 2C:39-3d; possession of a weapon (firearm) for an unlawful purpose, N.J.S.A. 2C:39-4a; possession of a firearm while in the course of committing a CDS offense or other offenses, N.J.S.A. 2C:39-4.1a; unlawful possession of a machine gun, handgun, rifle or shotgun, N.J.S.A. 2C:39-5a, b or c; certain persons not to have weapons, N.J.S.A. 2C:39-7; or manufacture, transport, disposition and defacement of machine guns, sawed-off shotguns, defaced firearms or assault firearms. N.J.S.A. 2C:39-9a, b, e or g. or the following crime(s):

1) _____

2) _____

3) _____

Y/O

AND/OR

- B. También admite, en virtud de esta declaración de culpabilidad, que cuando estaba cometiendo o tratando de cometer uno de los delitos, incluyendo su fuga inmediata del lugar de los hechos, usted usó un arma de fuego o tenía una en su posesión.

You are also admitting, by virtue of this plea, that while in the course of committing or attempting to commit one of the crimes, including the immediate flight therefrom, you used or were in possession of a firearm.

1. ¿Entiende que por su declaración de culpabilidad de

[Sí/Yes] [No/No]

Do you understand that because of your plea of guilty to

se requerirá que cumpla un período mínimo de tiempo de la condena impuesta antes de que esté en condiciones de recibir libertad condicional, conforme a la Ley Graves (tal como se expresa en la pregunta 7 del formulario para la declaración de culpabilidad que consta de tres páginas?

you will be subject to a minimum period of time before you will be eligible for parole (a parole ineligibility term) under the Graves Act (as set forth in question 7 on the three-page plea form)?

2. ¿Entiende que al declararse culpable y admitir que usó o tenía en su posesión un arma de fuego que es un _____ (tipo de arma de fuego) cuando estaba cometiendo o tratando de cometer uno de los delitos, usted renuncia a su derecho a que un jurado determine, más allá de una duda razonable, que usó o poseía un arma de fuego cuando cometió o trató de cometer uno de los delitos? [Sí/Yes] [No/No]

Do you understand that by pleading guilty and admitting that you used or were in possession of a firearm that is a _____, (type of firearm) while in the course of committing or attempting to commit one of the crimes, you are waiving your right to have a jury determine, beyond a reasonable doubt, that you used or possessed a firearm during the course of committing or attempting to commit one of the crimes?

3. ¿Corresponde al cargo imputado según la Ley Graves alguna otra disposición obligatoria de sentencia que estipule un período más largo durante el cual no pueda recibir libertad condicional (e.g., NERA, Tercera vez, Homicidio)? [Sí/Yes] [No/No] [No corresponde/NA]

Does any other mandatory sentencing provision apply to the Graves Act count that provides for a greater period of parole ineligibility (e.g., NERA, Three Strikes, Murder)?

Si corresponde alguna, ¿cuál es?

If so, which one?

Fecha _____ Acusado _____
Date _____ Defendant _____

Abogado Defensor _____
Defense Attorney _____

Fiscal _____
Prosecutor _____

ATTACHMENT 2

**Supplemental Plea Form for Eluding,
N.J.S.A. 2C:29-2b, Theft of a Motor
Vehicle, or Unlawful Taking of a Motor
Vehicle, N.J.S.A. 2C:20-2.1**

English and English-Spanish



New Jersey Judiciary
Supplemental Plea Form for Eluding (N.J.S.A. 2C:29-2b) or Theft of a Motor Vehicle or Unlawful Taking of a Motor Vehicle (N.J.S.A. 2C:20-2.1)

The following question needs to be answered only if you are pleading guilty for a violation of N.J.S.A. 2C:29-2b for eluding.

1. Do you understand that if you plead guilty you will be required to forfeit your driver's license for a period of time between 6 months and 2 years? [Yes] [No]

The following questions need to be answered only if you are pleading guilty for a violation of N.J.S.A. 2C:20-2 for theft of an automobile and the offense occurred on or after April 2, 1991, or for a violation of N.J.S.A. 2C:20-10 for unlawful taking of a motor vehicle ("Joyriding") and the offense occurred on or after August 2, 1993.

1. Do you understand that if you plead guilty you will be required to forfeit your driver's license? [Yes] [No]

1st Offense - 1 year license suspension

2nd Offense - 2 year license suspension

3rd or Subsequent Offense - 10 year license suspension

2. Do you understand that if you plead guilty you will be required to pay a mandatory penalty? [Yes] [No]

The mandatory penalties are as follows:

1st Offense \$ 500

2nd Offense \$ 750

3rd or Subsequent offense \$1,000

Total Penalty \$ _____

3. Do you understand that if you plead guilty to more than one theft of an automobile or unlawful taking of a motor vehicle that the license forfeitures and mandatory penalties imposed can be consecutive to each other? [Yes] [No]

Date _____ Defendant _____

Defense Attorney _____

Prosecutor _____



Poder Judicial de Nueva Jersey
New Jersey Judiciary

Suplemento al formulario de declaración de culpabilidad por eludir (N.J.S.A. 2C:29-2b) o por el robo de un vehículo motorizado o la retención ilegal de un vehículo motorizado (N.J.S.A. 2C:20-2.1)

Supplemental Plea Form for Eluding (N.J.S.A. 2C:29-2b) or Theft of a Motor Vehicle or Unlawful Taking of a Motor Vehicle (N.J.S.A. 2C:20-2.1)

Hay que contestar a la siguiente pregunta solamente si usted se está declarando culpable de una infracción por eludir, según N.J.S.A. 2C:29-2b.

The following question needs to be answered only if you are pleading guilty for a violation of N.J.S.A. 2C:29-2b for eluding.

¿Entiende que si se declara culpable tendrá que renunciar a su licencia de conducir

1. por un plazo de entre 6 meses y 2 años?

[Sí/Yes] [No/No]

Do you understand that if you plead guilty you will be required to forfeit your driver's license for a period of time between 6 months and 2 years?

Hay que contestar a las siguientes preguntas solamente si usted se declara culpable de infringir N.J.S.A. 2C:20-2 por el robo de un automóvil y la infracción ocurrió a partir del 2 de abril de 1991, o por infringir N.J.S.A. 2C:20-10 por la retención ilegal de un vehículo motorizado (el manejo imprudente de un auto ajeno sin el permiso del dueño - "joyriding") y la infracción ocurrió a partir del 2 de agosto de 1993.

The following questions need to be answered only if you are pleading guilty for violation of N.J.S.A. 2C:20-2 for theft of an automobile and the offense occurred on or after April 2, 1991, or for a violation of N.J.S.A. 2C:20-10 for unlawful taking of a motor vehicle ("Joyriding") and the offense occurred on or after August 2, 1993.

1. ¿Entiende que si se declara culpable tendrá que renunciar a su licencia de conducir?

[Sí/Yes] [No/No]

Do you understand that if you plead guilty you will be required to forfeit your driver's license?

1ra infracción - suspensión de la licencia por 1 año

1st Offense - 1 year license suspension

2da infracción - suspensión de la licencia por 2 años

2nd Offense - 2 year license suspension

3ra infracción o subsiguiente - suspensión de la licencia por 10 años

3rd or Subsequent Offense - 10 year license suspension

2. ¿Entiende que si se declara culpable tendrá que pagar una multa obligatoria?

[Sí/Yes] [No/No]

Do you understand that if you plead guilty you will be required to pay a mandatory penalty?

Las multas obligatorias son las siguientes/The mandatory penalties are as follows:

1ra infracción/1st Offense \$ 500

2da infracción/2nd Offense \$ 750

3ra infracción o subsiguiente/3rd or Subsequent offense \$1,000

Multa total/ Total Penalty \$ _____

3. ¿Entiende que si se declara culpable del robo de más de un automóvil o de más de una retención ilegal de un vehículo motorizado, las pérdidas de licencia y las multas obligatorias que se impongan podrán ser consecutivas las unas a las otras?

[Sí/Yes] [No/No]

Do you understand that if you plead guilty to more than one theft of an automobile or unlawful taking of a motor vehicle that the license forfeitures and mandatory penalties imposed can be consecutive to each other?

Fecha/Date _____ Acusado/Defendant _____

Abogado Defensor/Defense Attorney _____

Fiscal/Prosecutor _____

ATTACHMENT 3

**Notice to Defendant Pursuant
to N.J.S.A. 2C:29-2b
Mandatory Suspension of Driving
Privileges**

English and English-Spanish

State of New Jersey

Superior Court of New Jersey

Law Division - _____ County

Indictment No. _____

v.

Defendant

**NOTICE TO DEFENDANT
PURSUANT TO N.J.S.A. 2C:29-2b
MANDATORY SUSPENSION OF DRIVING
PRIVILEGES**

This is to inform you that, as a person convicted of Eluding pursuant to *N.J.S.A. 2C:29-2b*, your driver's license is suspended for a period of _____ [6 months to 2 years], effective today. In addition, if during the period of suspension you are convicted of personally operating a motor vehicle, you will be subject to the penalties set forth in *N.J.S.A. 39:3-40*:

Upon conviction for a first offense, a fine of \$500;

Upon conviction for a second offense, a fine of \$750, and imprisonment in the county jail for at least 1 day but not more than 5 days;

Upon conviction for a third offense or subsequent offense, a fine of \$1,000, and imprisonment in the county jail for 10 days.

In addition, under certain circumstances, conviction for a first, second, third or subsequent offense could result in revocation of your motor vehicle registration privilege and/or an additional period of your driver's license suspension.

You have also been informed of the above consequences orally in open court by the Judge.

I, _____, the defendant in the above-entitled cause(s) having been convicted of Eluding pursuant to *N.J.S.A. 2C:29-2b*, hereby acknowledge receipt of written notice of the penalties for driving while suspended for a violation of said statute. I have also been informed of these consequences by the judge orally in open court.

Dated: _____

Defendant

APPROVED BY: _____

J.S.C

To be completed by defendant if driver's license is not collected at time of sentencing:

Full name: _____

Address: _____

Date of Birth: _____ Eye Color: _____ Gender: _____

El estado de Nueva Jersey
State of New Jersey

Tribunal Superior de Nueva Jersey
Superior Court of New Jersey

División de Derecho - Condado de _____
Law Division County

Número de la Acusación Formal _____
Indictment No.

v.

Acusado
Defendant

**NOTIFICACIÓN AL ACUSADO
CONFORME A N.J.S.A. 2C:29-2b
SUSPENSIÓN OBLIGATORIA DE LOS PRIVILEGIOS DE
CONducir**

**NOTICE TO DEFENDANT
PURSUANT TO N.J.S.A. 2C:29-2b
MANDATORY SUSPENSION OF DRIVING PRIVILEGES**

Conforme a N.J.S.A. 2C:29-2b, esta notificación es para informarle que, como persona condenada de Eludir, su licencia de conducir se ha suspendido por un período de _____ [6 meses a 2 años], a partir de hoy. Además, si durante el período de suspensión lo condenan de operar personalmente un vehículo motorizado, estará sujeto a las siguientes penalidades expuestas en N.J.S.A. 39:3-40:

This is to inform you that, as a person convicted of Eluding pursuant to N.J.S.A. 2C:29-2b, your driver's license is suspended for a period of _____ [6 months to 2 years], effective today. In addition, if during the period of suspension you are convicted of personally operating a motor vehicle, you will be subject to the penalties set forth in N.J.S.A. 39:3-40:

Al ser condenado por una primera infracción, una multa de \$500;
Upon conviction for a first offense, a fine of \$500;

Al ser condenado por una segunda infracción, una multa de \$750, y encarcelación en la cárcel del condado por al menos 1 día pero no más de 5 días;
Upon conviction for a second offense, a fine of \$750, and imprisonment in the county jail for at least 1 day but not more than 5 days;

Al ser condenado por una tercera infracción o una infracción subsiguiente, una multa de \$1,000, y encarcelación en la cárcel del condado por 10 días.
Upon conviction for a third offense or subsequent offense, a fine of \$1,000, and imprisonment in the county jail for 10 days.

Además, de acuerdo con ciertas circunstancias, una condena por una primera infracción, o una segunda, tercera o infracción subsiguiente podría tener como resultado la revocación del privilegio de registrar su vehículo motorizado o un período adicional de suspensión de su licencia de conducir, o ambas cosas.

In addition, under certain circumstances, conviction for a first, second, third or subsequent offense could result in revocation of your motor vehicle registration privilege and/or an additional period of your driver's license suspension.

Un juez también le ha informado verbalmente de las consecuencias indicadas más arriba en una audiencia pública.
You have also been informed of the above consequences orally in open court by the Judge.

Yo, _____, el acusado en la(s) causa(s) titulada(s) más arriba, habiendo sido condenado de Eludir conforme a N.J.S.A. 2C:29-2b, por este medio acuso recibo de la notificación escrita de las penalidades por conducir con la licencia suspendida debido a una infracción de dicho estatuto. El juez también me ha informado verbalmente de estas consecuencias en una audiencia pública.

I, _____, the defendant in the above-entitled cause(s) having been convicted of Eluding pursuant to N.J.S.A. 2C:29-2b, hereby acknowledge receipt of written notice of the penalties for driving while suspended for a violation of said statute. I have also been informed of these consequences by the judge orally in open court.

Fechado: _____
Dated: _____

Acusado/ Defendant

APROBADO POR: _____
APPROVED BY: _____

J.S.C

Para ser llenado por el acusado si la licencia de conducir no se entrega en el momento de la imposición de la condena.

To be completed by defendant if driver's license is not collected at time of sentencing:

Nombre y apellido _____
Full name:

Dirección _____
Address:

Fecha de Nacimiento: _____ Color de los Ojos: _____ Sexo: _____
Date of Birth: _____ Eye Color: _____ Gender: