ANCILLARY ORDERS AT SENTENCING

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Disclaimers

1. This picklist is intended to be used as a guide, not as a menu of options to select from in any given case. It sets out suggested standard wording for common types of conditions that arise; however, other than any compulsory conditions, many will not be appropriate in every case. Judges always have discretion in deciding how the law should be applied. They may or may not choose to use the picklist wording.

2. Anyone referring to the picklist is required to read the complete wording of the order on the record. There are no associated numbers for this pick list.

Victim Surcharge

Criminal Code Offences Committed on or after July 22, 2019	
Victim Surcharge s. 737(1) • s. 737(2)(a) 30% of any fine imposed, or • s. 737(2)(b) If no fine is imposed: o $100 for each summary offence; o $200 for each indictable offence. • s. 737(3) The Court can order a surcharge above the specified amount.	You must pay a victim surcharge in the amount of $___. It must be paid: a. within 60 days (no fine or jail imposed); b. the same due date as fine (if a fine is imposed); or c. within 60 days of expiry of warrant of committal or two years, whichever is sooner (continuous jail is imposed); d. with the consent of the Crown, having heard your application for an extension for time to pay, it must be paid by [date]. If you require further time to pay the surcharge, you must apply in writing to ask the Court for an extension.
Surcharge Exemption for Undue Hardship • Upon application by the offender or the Court's motion. • Imprisonment alone does not constitute undue hardship per s. 737(2.3) • Reasons Required	Pursuant to section 737(2.1) of the *Criminal Code*, I am satisfied: a. because of your precarious financial circumstances (the result of unemployment, homelessness, lack of assets, or significant financial obligations towards dependents) the surcharge would cause an undue hardship to you; or b. the surcharge is disproportionate to the gravity of the offence or the degree of your responsibility; I order you to pay: a. No surcharge(s). b. Reduced surcharge(s) in the amount of $____. c. Surcharge(s) in the amount of $___but only on the following Counts:___. There are no surcharges on the remaining counts.

Fine or Surcharge Paid out of Money Seized s. 734(6)	Under section 734(6) of the *Criminal Code*, I am satisfied that you are the owner of the money found in your possession when you were arrested, and I order that the victim surcharge be paid out of that money.

Firearms/ Weapons Prohibition

Mandatory Firearms/Weapons Prohibition where: 1st offence: • Indictable, max 10 yrs or more and violence used, threatened or attempted • Indictable, violence used, threatened or attempted intimate partner/child/co-resident • enumerated firearms offences • enumerated *CDSA* and *Cannabis* offences • enumerated weapons offences while prohibited	Pursuant to section 109(2) of the *Criminal Code*, you are prohibited from possessing: a. any firearm, other than a prohibited firearm or restricted firearm, and any crossbow, restricted weapon, ammunition and explosive substance for a period of _____(1st offence: min 10) years (from today or following your release), and b. any prohibited firearm, restricted firearm, prohibited weapon, prohibited device and prohibited ammunition for life.
Mandatory Firearms/Weapons Prohibition Notice: Life 2nd or subsequent offence (as above) with s. 727 notice	Pursuant to section 109(3) of the *Criminal Code,* you are prohibited from possessing any firearm, crossbow, prohibited weapon, restricted weapon, prohibited device, ammunition and explosive substance for life.
Discretionary Firearms/Weapons Prohibition s. 110 Maximum: life for offences against intimate partner or partner's child or co-resident **otherwise** maximum is 10 yrs. • Reasons required if not ordered	Pursuant to section 110 of the *Criminal Code*, you are prohibited from possessing any firearm, crossbow, prohibited weapon, restricted weapon, prohibited device, ammunition, prohibited ammunition, or explosive substance, or all such things, for _____ years (from today or following your release).

Surrender Firearm s. 114	Pursuant to section 114 of the *Criminal Code*, you must immediately (or *by 3:00 PM today*) go to the police station at _____, BC and present a copy of this order for the purpose of accompanying a police officer to the place of all firearms, crossbows, prohibited weapons, restricted weapons, prohibited devices, ammunition or explosive substances, possessed by you or through another person, and to the location of any related authorizations, licenses or registration certificates, and surrendering all such items to that police officer.
Transfer Firearms	Within 90 days of the imposition of sentence, you may transfer legal ownership in the firearms, cross bows, restricted weapons, and ammunition to individuals or businesses possessing the necessary licenses, authorizations and registration certificates and who are not otherwise prohibited from possessing the items. If you do not transfer legal ownership of the items within 90 days of the imposition of sentence or the legal transferees of the items do not take possession of the items within 90 days of the imposition of sentence, the items are forfeited to Her Majesty pursuant to s. 115 of the *Criminal Code*.
Sustenance Or Employment Exemption s.113	I authorize the Chief Firearms Officer or the Registrar of Firearms to issue an authorization, a licence or a registration certificate as the case may be to (*Name of the Offender*) for sustenance and/or employment purposes in accordance with the following terms and conditions: (continued) a. the firearm or ammunition may only be possessed on the way to and from and in the course of a legal hunt; or b. the firearm or ammunition may only be possessed on the way to and from and in the course of their employment, and c. You must not possess the firearm or ammunition if you are intoxicated.

Pre-Sentence Credit

Pre-Sentence Custody s. 719(3.3)	1. The term of imprisonment I would have imposed on (name count on Indictment) before granting any credit is ___ days. 2. The actual pre-sentence time spent in custody is __ days. 3. I am granting you credit at a rate of ____. 4. The total credit I am granting you is ____days. 5. The sentence imposed on (name count on Indictment) is __.

DNA

DNA Order s. 487.051 Primary: Mandatory and does not require an application by the Crown. Secondary: Discretionary and requires an application by the Crown. (Reasons must be given)	**Primary:** Count _____ on Indictment _____ is a *primary* designated offence. Pursuant to section 487.051(1) of the *Criminal Code*, I make an order in Form 5.03 authorizing the taking of samples of bodily substances from you for the purpose of registration in the DNA National Databank. **Secondary:** Count _____ on Indictment _____ is a secondary designated offence. After considering the factors set out in s 487.051(3) of the *Criminal Code*, I am satisfied that it is (is not) in the best interest of the administration of justice to make an order in Form 5.04 authorizing the taking of samples of bodily substances from you for the purpose of registration in the DNA National Databank. **Non-Custody:** You must attend at the police station at _____ BC on_____ at _____ and submit to the taking of the samples. This order is valid until executed. **Custody:** The samples will be taken from you while you are in jail and you must submit to the taking of the samples.

Driving / Conveyance Prohibitions[1]

Motor Vehicle Act s. 98 Discretionary	Pursuant to section 98 of the *Motor Vehicle Act*, you are prohibited from driving any motor vehicle on any highway or industrial road in the Province of British Columbia for _____. The prohibition: 1. Takes effect immediately 2. Continues for the full day of each day of the prohibition 3. Continues for consecutive days
For offences committed on or after December 18, 2018	
Impaired Driving or Refusal Simpliciter s. 320.24(1) Mandatory Prohibition can be consecutive s.320.24(9) if the new offence is committed while the offender is already prohibited	Pursuant to section 320.24(1) of the *Criminal Code*, you are prohibited from operating any motor vehicle on any street, road, highway or other public place in Canada for a period of___. (Plus period of imprisonment imposed on that count.) a. 1st offence: 1-3 yrs. (plus period of imprisonment). b. 2nd offence with s. 727 notice: 2-10 yrs. (plus period of imprisonment). c. Subsequent offence with s. 727 notice: minimum 3 yrs. (plus period of imprisonment).
Impaired Driving Low BDC (THC 2ng>5ng) 320.24(3) Discretionary	Pursuant to section 320.24(4) of the *Criminal Code*, you are prohibited from operating any motor vehicle on any street, road, highway or other public place in Canada for a period of_____(Plus period of imprisonment imposed on that count). a. Max 12 months (plus period of imprisonment).

[1] In rare circumstances, a prohibition is directed at a “conveyance” other than a motor vehicle.

<table>
<tr>
<td>Other Criminal Driving Offences

s. 320.24(5)

Discretionary

<table>
<tr><th>Offence</th><th>Max</th></tr>
<tr><td>Indictable: Impaired Driving or Refusal</td><td>10 years</td></tr>
<tr><td>Dangerous Driving, Fail to Stop, Flight from Police, and Driving While Disqualified</td><td>Summary: 2 yr less one day
Indictable:10 yr</td></tr>
<tr><td>Dangerous, Impaired, Over 80, Refusal, Failing to Stop: and Bodily harm</td><td>Summary: 2 yr less one day
Indictable:14 yr</td></tr>
<tr><td>Dangerous, Impaired, Over 80, Refusal, Failing to Stop: and Death</td><td>Life</td></tr>
</table>
</td>
<td>Pursuant to sections 320.24(1) of the Criminal Code, you are prohibited from operating any motor vehicle on any street, road, highway or other public place in Canada for a period of _____. (Plus period of imprisonment imposed on that count.)

a. If liable to life: no max (plus period of imprisonment).

b. If liable to 5 years but less than life: 0-10 yrs. (plus period of imprisonment).

c. All others: 0-3 yrs. (plus period of imprisonment).</td>
</tr>
</table>

Fine Payment Out of Money Seized

Fine Paid Out Of Money Seized s. 734(6) Discretionary	Pursuant to section 734(6) of the *Criminal Code*, I am satisfied that you are the owner of the money found in your possession when you were arrested, and I order that the fine ordered be paid out of that money.

Restitution

Restitution-Stand Alone s. 738 Is discretionary but must consider and if deny must give reasons 737.1(5)	Pursuant to section 738 of the *Criminal Code*, I order that you pay restitution in the amount of $ ___ to _____ by _____ (or installments according to the following payment schedule).

Restitution Paid Out of Money Seized s. 741(2) Discretionary	Pursuant to section 741(2) of the *Criminal Code*, I am satisfied that you are the owner of the money found in your possession when you were arrested and I order that the restitution ordered pursuant to section 738 be paid out of that money.

Report by Court to Correctional Service

743.2	Pursuant to s. 743.2 of the *Criminal Code*, these reasons for sentence and _____ (list any relevant reports submitted to the court and any other information relevant to administering the sentence or committal) are to be forwarded to the Correctional Service of Canada.

Delayed Parole

Delayed Parole - s. 743.6(1)	Pursuant to s. 743.6(1) of the *Criminal Code*, you must serve (1/2 of the sentence of imprisonment or ten years whichever is less) before you may be released on full parole.

Forfeiture

Unlawful To Possess Or Owner Unknown s. 490(9) Refer to section to determine if mandatory or discretionary	Pursuant to section 490(9) of the *Criminal Code,* I order that (*Items*) be forfeited to Her Majesty, to be disposed of in accordance with the directions of the Attorney General, as defined in section 2 of the *Criminal Code*.
Offence Related Property s. 490.1 (1) mandatory (2) discretionary	Pursuant to section 490.1 of the *Criminal Code,* I am satisfied (1) on a balance of probabilities that (***Item***) is offence-related property in relation to the indictable offence of which you have been convicted (or discharged under s. 730), and I order that it be forfeited to Her Majesty in right of: • (In the case where the prosecution is conducted by the province) the Province of BC to be disposed of or otherwise dealt with by the Attorney General; Or

	• (In any other case) Canada to be disposed of or otherwise dealt with by the designated member of the Queen's Privy Council for Canada. (2) Beyond a reasonable doubt that (*Item not listed in (1) above*) is offence-related property and I order that it be forfeited to Her Majesty in right of: • (In the case where the prosecution is conducted by the province) the Province of BC to be disposed of or otherwise dealt with by the Attorney General; Or • (In any other case) Canada to be disposed of or otherwise dealt with by the designated member of the Queen's Privy Council for Canada.
Return or Forfeiture of Property Obtained by Crime s. 491.1 Mandatory (with exceptions)	Pursuant to section 491.1 of the *Criminal Code,* after the trial of this offence, I am satisfied that an offence has been committed and that the following property was obtained by the commission of the offence (*Describe*) (the "Property"), is before the court and is not required as evidence in any other proceedings. I order that the Property: (a) be returned to _____, the lawful owner or person lawfully entitled to possession of the Property; or (b) as the lawful owner or person lawfully entitled to possession of the Property is unknown, be forfeited to Her Majesty to be disposed of as the Attorney General directs or otherwise dealt with in accordance with the law.
Drug Offence Related Property s. 16 *CDSA* (1) mandatory (2) discretionary	Pursuant to section 16 of the *Controlled Drugs and Substances Act,* I am satisfied (1) on a balance of probabilities that (*Item(s)*) is non-chemical offence-related property in relation to the designated substance offence of which you have been convicted (*or discharged under s. 730 of the Criminal Code*) and I order that it be forfeited to Her Majesty in right of • (In the case where the prosecution is conducted by the province) the Province of BC to be disposed of or otherwise dealt with by the Attorney General; Or

	• (In any other case) Canada to be disposed of or otherwise dealt with by the designated member of the Queen's Privy Council for Canada. (2) Beyond a reasonable doubt that (*Item not listed in (1) above*) is non-chemical offence-related property and I order that it be forfeited to Her Majesty in right of • (In the case where the prosecution is conducted by the province) the Province of BC to be disposed of or otherwise dealt with by the Attorney General; Or • (In any other case) Canada to be disposed of or otherwise dealt with by the designated member of the Queen's Privy Council for Canada.
Forfeiture Order under the Cannabis Act, s. 94	Pursuant to section 94 of the *Cannabis Act,* I am satisfied on a balance of probabilities that (*Item(s)*) is non-chemical offence-related property in relation to the designated offence of which you have been convicted (*or discharged under s. 730 of the Criminal Code*) and I order that it be forfeited to Her Majesty to be disposed of in accordance with the directions of the Attorney General, as defined in section 2 of the *Criminal Code*.
Firearms or Weapons Used In Offence s. 491(1)(a) Mandatory	Pursuant to section 491(1)(a) of the *Criminal Code*, I am satisfied that a (*Weapon/ Firearm*) was used in the commission of an offence and I order that it be forfeited to Her Majesty to be disposed of in accordance with the directions of the Attorney General, as defined in section 2 of the *Criminal Code*.
Firearms or Weapons Subject Matter of The Offence s. 491(1)(b) Mandatory	Pursuant to section 491(1)(b) of the *Criminal Code*, I am satisfied that the offence you committed involved, or the subject matter of the offence was _____ (a firearm, a cross-bow, a prohibited weapon, a restricted weapon, a prohibited device, ammunition, prohibited ammunition or an explosive substance), and I order that it be forfeited to Her Majesty to be disposed of in accordance with the directions of the Attorney General.

Intimate Image Distribution, Child Sexual Abuse and Exploitation Material, and Child Luring s. 164.2(1) Discretionary	Pursuant to section 164.2(1) of the *Criminal Code*, following your conviction under section (*162.1, 163.1, 172.1, 172.2*) I am satisfied on a balance of probabilities that _____*(*the "Property") (list property): • was used in the commission of the offence; is your property (or the property of *another person who was a party to the offence or was transferred to ____ in circumstances that give rise to an inference that it was transferred to avoid forfeiture.)* The Property is forfeited to Her Majesty to be disposed of in accordance with the directions of the Attorney General.

Sex Offender Identification Registry Act (SOIRA)

Sex Offender Registry ss. 490.012 and 490.013	a. Pursuant to sections 490.012 and 490.013 of the *Criminal Code*, you are required to comply with the *Sex Offender Information Registration Act* for _____ (*10/20 years/life*). b. For the reasons given, pursuant to s. 490.012(3) of the *Criminal Code*, you are not required to comply with the *Sex Offender Information Registration Act*.

Section 161 Prohibition

161 Prohibition (Max Life) s. 161 Discretionary	Pursuant to section 161 of the *Criminal Code*, you are prohibited for _____ years from: a. attending a public park or public swimming area where persons under the age of 16 years are present or can reasonably be expected to be present, or a daycare centre, school ground, playground or community centre; b. being within two kilometres (or any other distance specified) of any residence, school or workplace of _____; c. seeking, obtaining or continuing any employment, whether or not the employment is remunerated, or becoming or being a volunteer, in a capacity that

	involves a position of trust or authority towards persons under the age of 16; d. having contact or communication with a person who is under the age of 16 years; e. using the Internet or other digital network. Except in the following circumstances: i. in the presence of (under the supervision of) a person approved in writing by the court, your probation officer, (your conditional sentence supervisor), your parole officer, a member of the Royal Canadian Mounted Police, or the person to whom you are reporting under the *Sex Offender Information Registration Act*. You must carry a copy of the written permission with you. ii. lawful employment, with the circumstances of employment being approved in advance in writing by the court, your probation officer, (your conditional sentence supervisor), your parole officer, a member of the Royal Canadian Mounted Police, or the person to whom you are reporting under the Sex Offender Information Registration Act. You must carry a copy of the written permission with you. iii. as approved in advance in writing by the court, your probation officer, (your conditional sentence supervisor), your parole officer, a member of the Royal Canadian Mounted Police, or the person to whom you are reporting under the Sex Offender Information Registration Act. You must carry a copy of the written permission with you. iv. you may access the internet but not access any illegal content, communicate with persons under the age of __ other than immediate family members, or access any social media. v. you may access the internet but not access any content that violates the law, or directly or indirectly access any social media sites, social network, internet discussion forum or chat room, or maintain a personal profile, on any such service (e.g. Facebook, Twitter, Tinder, Instagram, or any equivalent or similar service).

Animal Cruelty

Prohibition (Max life) (Discretionary unless subsequent offence and Notice served - then: mandatory minimum 5 yr) s. 447.1(1)(a)	Pursuant to section 447.1(1)(a) of the *Criminal Code*, you are prohibited from owning, having custody or control of, or residing in the same premise as an animal or bird for _____years.
Restitution s. 447.1(1)(b)	Pursuant to section 447.1(1)(b) of the *Criminal Code* you must pay (*Name of Organization*), the organization that has taken care of the animal, $ ___for the reasonable and ascertainable costs of that care.

Intimate Image Distributor - Internet Use Prohibition

Intimate Image Distributor s. 162.2 (Max Life) Discretionary	Pursuant to section 162.2 of the *Criminal Code,* you are prohibited for _____ (including any period of sentence of imprisonment) from using the Internet or any digital network. *Except in the following circumstances (list):*

Fraud - Employment Prohibition

Fraud Order (Max Life) Discretionary s. 380.2(1)	Pursuant to section 380.2(1) of the *Criminal Code* you are prohibited for _____ (time period) from: • seeking, obtaining, or continuing any employment, or • becoming a volunteer in any capacity that involves having authority over the real property, money or valuable security of another person.

No Communication While in Custody

No Communication In Custody	The Warrant of Committal shall be endorsed with the following order: Pursuant to section 743.21(1) of the *Criminal Code*, you must have no contact of any kind with _____ while you are in custody (*consider any exceptions*).