

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

Order Number 2009-54-Crim

ADMINISTRATIVE ORDER AS TO
FELONY DRUG COURT DIVISIONS

(a) Florida Rule of Judicial Administration 2.215(b)(3) states the chief judge shall “develop an administrative plan for the efficient and proper administration of all courts within that circuit.”

(b) §948.08(6), Fla. Stat., authorizes the chief judge to establish a drug court program to include programs as authorized by §948.08, Fla. Stat., and §397.334, Fla. Stat.

(c) In accordance with the authority vested in the chief judge by Florida Rule of Judicial Administration 2.215, it is ordered:

- (1) Cases eligible for transfer to the felony drug court divisions are:
 - (a) defendants eligible for a pretrial substance abuse education and treatment intervention program as authorized by §948.08(6), Fla. Stat., or
 - (b) defendants who enter pleas, receive eighteen (18) months probation and agree to a substance abuse education and treatment intervention program¹, or
 - (c) defendants referred by another circuit criminal judge for drug court monitoring²; or
 - (d) defendants charged with an eligible §948.08(6), Fla. Stat., offense and in the same case, an ineligible third degree nonviolent felony to which the defendant agrees to plea and be ordered to probation as long as otherwise authorized pursuant to §948.08, Fla. Stat.
- (2) Entry into the felony drug court is voluntary.

¹ If the defendant has not completed probation and a substance abuse education and treatment intervention program within two (2) years after commencement of probation, the case shall be transferred, as long as there is no order extending treatment, from a drug court division to the originally assigned circuit criminal division by the drug court division judge.

² If a case is transferred to drug court from another circuit criminal division for drug court monitoring and if the defendant is then charged with a violation of probation or arrested and prosecution commenced for a felony not set forth in §948.08(6), Fla. Stat., the case shall be transferred back to the originally assigned circuit criminal division for proceedings with regard to the violation of probation or additionally filed charges.

- (3) A defendant who elects not to enter into felony drug court or pleads to probation without treatment will be transferred to the originally assigned circuit criminal division by the drug court division judge.
- (4) A defendant is preliminarily qualified to participate in drug court if the offense charged by information or indictment is a second or third degree felony, as defined in §948.08(6), Fla. Stat.³ A defendant may not participate in drug court if he or she is excluded pursuant to the provisions of §948.08, Fla. Stat.
- (5) The Clerk of Court shall randomly assign transferred cases to the drug court divisions as required by any and all directives either by Administrative Order or other directive from the Chief Judge. This provision is directed only to those matters wherein the Clerk is requiring the entry of an administrative order for internal operating procedure that does not require an administrative order.
- (6) The Broward Sheriff's Office of Pretrial Services will expeditiously interview on a daily basis those in custody arrestees to preliminarily determine eligibility to participate in the drug court programs and recommend to the First Appearance Judge if the individual should participate in a drug court program. The First Appearance Judge may order the arrestee into the drug court pretrial release program offered by the Broward Sheriff's Office if the conditions set forth at §948.08(2) are met.
- (7) In addition to any other conditions of participation in the Broward Sheriff's Office of Pretrial Services drug court program, the following conditions are also imposed:
 - (a) The individual must immediately report to and attend the Drug Court Treatment Program as directed by the Broward Sheriff's Office of Pretrial Services; and
 - (b) The individual must personally appear at all court hearings as instructed by the Broward Sheriff's Office of Pretrial Services officer and/or counselor.
- (8) The Broward Sheriff's Office of Pretrial Services will furnish on a daily basis to the Department of Corrections, a list of the individuals preliminarily determined to be eligible for the drug court program and on pretrial release together with the applicable booking sheet, probable cause affidavit, criminal records investigation report, and pretrial drug court release order.
- (9) If an arrested individual posts a cash or surety bond, the Broward Sheriff's Office of Pretrial Services shall review the criminal history if the arrest was for a qualifying charge.
- (10) The Broward Sheriff's Office of Pretrial Services will advise the Clerk of Circuit Court which of the cases where the defendant is out on bond or in his pretrial

³ If the State Attorney objects to a case being transferred to drug court based upon allegations the defendant was dealing or selling the controlled substance which is the basis for the arrest, he shall advise the court. If the objection is sustained the defendant's case shall be transferred to the originally assigned circuit criminal division from drug court.

- release program shall be set in a drug court division for arraignment and/or judicial determination of eligibility to participate in the drug court program.⁴
- (11) At arraignment or pretrial determination, the defendant may
- (a) Opt into a pretrial substance abuse education and treatment intervention program⁵; or
 - (b) Opt into the drug court program, plea, and be placed on eighteen (18) months probation with the terms including a substance abuse education and treatment program;⁶ or
 - (c) Opt out of the drug court program, plea, and have his or her case transferred to a non drug court circuit criminal division for an additional arraignment and further proceedings.
- (12) The participation requirements for the drug court program are:
- (a) A minimum of one (1) year and no more than eighteen (18) months attendance at the Broward Sheriff's Office Drug Court Treatment Program or approved alternative treatment program.
 - (b) Substantial compliance with all terms of probation or the terms of the pretrial substance abuse education and treatment intervention program; all orders of the court; the rules and regulations of the Broward Sheriff's Office Drug Court Treatment Program or approved alternative treatment program; and the rules and regulations of the Department of Corrections.
- (13) At the one (1) year anniversary of entry into a pretrial substance abuse education and treatment intervention program or order of probation the court shall conduct a status conference and determine if:
- (a) The defendant successfully completed all terms and conditions of the pretrial substance abuse education and treatment intervention program and/or probation.
 - (b) The defendant is successfully finishing all terms and conditions of the pretrial substance abuse education and treatment intervention program and/or probation and will complete same within the next six (6) months.

⁴ To expedite and encourage immediate participation by an individual released from jail on bond, the Broward Sheriff's Office of Pretrial Services will notify the arrested individual, the bondsmen, and attorney for the arrested individual of the possibility of participating in the drug court treatment program. The notice shall contain information as to where the arrested individual is to report or whom to contact if interested in receiving additional information.

⁵ If a defendant opts in, he or she shall execute an agreement to comply with the pretrial substance abuse education and treatment intervention program and all pretrial intervention requirements of the Florida Department of Corrections. The pretrial substance abuse education and treatment intervention program may require residential treatment.

⁶ The terms of probation may require residential treatment.

- (c) The defendant did not successfully complete all terms and conditions of the pretrial substance abuse education and treatment intervention program and/or probation and will not complete same within the next six (6) months.
- (i) The court may offer the defendant the option of entering a plea to the charges if the defendant has attended a pretrial substance abuse education and treatment intervention program. If probation without treatment is imposed the case will be transferred to the originally assigned circuit criminal division for subsequent hearings, as may be necessary.
- or
- (ii) The court may determine if there are extraordinary circumstances and order continued treatment.
- (14) At the eighteen (18) month anniversary of entry into a pretrial substance abuse education and treatment intervention program or other drug court program the court shall conduct a status conference and determine if the defendant did or did not successfully complete the pretrial substance abuse education and treatment intervention program or other drug court program. If the defendant did not successfully complete the pretrial substance abuse education and treatment intervention program or other drug court program, absent extraordinary circumstances, the case shall be transferred to the originally assigned circuit criminal division for all future hearings.
- (15) At the second (2d) anniversary of the signing of the order of probation the court shall conduct a status conference and determine if the defendant did or did not successfully complete the drug court program. If the defendant did not successfully complete the drug court program, absent extraordinary circumstances and an order extending treatment, the case shall be transferred to the originally assigned circuit criminal division by the Clerk of Court for all future hearings.
- (16) A defendant transferred to drug court shall be terminated from drug court if there is an outstanding capias for a period of six (6) months or immediately upon the filing of new criminal charges or violation of probation not encompassed within the provisions of §948.08(6), Fla. Stat.
- (17) This Administrative Order vacates and supersedes Administrative Order No. III-92-E1, III-94-E-2, III-94-E-4, III-96-E-5, III-07-E-3A.

DONE AND ORDERED in chambers at Fort Lauderdale, Broward County, Florida on April 29, 2009.

s/Victor Tobin
Victor Tobin, Chief Judge