

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

Order Number 2010-14-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) General Conditions

- (a) Cases eligible for transfer to the felony drug court divisions, subject to any other conditions established by law, rule, or this Administrative Order, are:
- (i) defendants eligible for a pretrial substance abuse education and treatment intervention program as authorized by §948.08(6), Fla. Stat.¹, or
 - (ii) defendants who enter pleas, receive eighteen (18) months probation and agree to a substance abuse treatment program², or
 - (iii) defendants referred by another circuit criminal judge for drug court monitoring³.

¹ In an effort to provide as many individuals as possible with an opportunity to participate in drug court programs and due to resource limitations, an individual is limited to two (2) cases for entry into a pretrial substance abuse education and treatment program.

² 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.

³ 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.

- (b) Entry into the felony drug court is voluntary and subject to funding for pretrial and post adjudicatory programs.
- (c) 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.
- (d) 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 of Court is requiring the entry of an administrative order for internal operating procedure that does not require an administrative order.

(2) Pretrial Intervention

- (a) The Broward Sheriff's Office of Pretrial Services will expeditiously interview on a daily basis the in custody arrestees to preliminarily determine eligibility to participate in a pretrial substance abuse education and treatment intervention program and inform the First Appearance Judge if the individual should participate in a pretrial 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), Fla., Stat., are met.
- (b) In addition to any other conditions of participation imposed by the Broward Sheriff's Office of Pretrial Services drug court program, the following conditions are also imposed:
 - (i) The defendant must immediately report to and attend the Drug Court Treatment Program as directed by the Broward Sheriff's Office of Pretrial Services; and
 - (ii) The individual must personally appear at all court hearings as instructed by the Broward Sheriff's Office of Pretrial Services officer and/or counselor.
- (c) The Broward Sheriff's Office of Pretrial Services will furnish on a weekly basis to the Department of Corrections, a list of the individuals preliminarily determined to be eligible for pretrial substance abuse education and treatment intervention program and on pretrial release together with the applicable booking sheet, probable cause affidavit, criminal records investigation report, and pretrial drug court release order.
- (d) 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 and may be eligible for a pretrial substance abuse education and treatment intervention program.⁴

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 of the possibility of participating in the drug court pretrial substance abuse

- (e) The Broward Sheriff's Office of Pretrial Services will advise the Clerk of Circuit Court the cases where the defendant is out on bond or in his pretrial release program that shall be set in a drug court division for arraignment and/or judicial determination of eligibility to participate in the drug court program.
- (f) At arraignment or pretrial determination, the defendant may:
 - (i) Opt into a pretrial substance abuse education and treatment intervention program⁵; or
 - (ii) Opt out of a pretrial substance abuse education and treatment intervention program with his or her case transferred to a non drug court circuit criminal division for an additional arraignment and further proceedings.
- (g) The participation requirements for a pretrial substance abuse education and treatment intervention program are:
 - (i) 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.
 - (ii) Substantial compliance with all terms of the pretrial substance abuse education and treatment intervention program; all orders of the court including attendance at all status hearings; 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.
- (h) At the one (1) year anniversary of entry into a pretrial substance abuse education and treatment intervention program the court shall conduct a status conference and determine if:
 - (i) The defendant successfully completed all terms and conditions of the pretrial substance abuse education and treatment intervention program.
 - (ii) The defendant is successfully finishing all terms and conditions of the pretrial substance abuse education and treatment intervention program and will complete same within the next six (6) months.
 - (iii) The defendant did not successfully complete all terms and conditions of the pretrial substance abuse education and treatment intervention program and will not complete same within the next six (6) months.
 - (iv) The court may determine if there are extraordinary circumstances and order continued treatment.

education and treatment intervention 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.

- (i) At the eighteen (18) month anniversary of entry into a pretrial substance abuse education and treatment intervention 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. If the defendant did not successfully complete the pretrial substance abuse education and treatment intervention program, absent extraordinary circumstances, the case shall be transferred to the originally assigned circuit criminal division for all future hearings.

(3) Pretrial Intervention Pilot Project.

- (a) This program is limited to forty (40) defendants who are identified as having a substance abuse problem or substance addiction, meet the requirements for pretrial intervention, and
 - (i) are charged with non-violent third degree felony offenses as provided in Chapter 810, Fla. Stat., or
 - (ii) are charged with an offense that is not a forcible felony as defined in §776.08, Fla. Stat.
- (b) The initial forty (40) defendants participating in the pretrial intervention pilot project will be selected as follows:
 - (i) cases currently transferred to a drug court division for which an assessment is being conducted to determine if the individual has a substance abuse problem or substance addiction; or
 - (ii) upon request of the defendant for cases pending in a criminal division upon completion of screening to determine if the individual has a substance abuse problem or substance addiction and agreement of the criminal division judge.
- (c) The judge assigned to a drug court division shall order a professional substance abuse/addiction assessment at the defendant's first hearing in the division and reset the defendant for a hearing to determine attendance at the Broward Sheriff's Office Drug Court Treatment Program or approved alternative treatment program as determined by the drug court division judge.
- (d) If a victim of the crime for which the defendant is charged is entitled to restitution, the defendant must agree to pay restitution and complete payment by the time he or she completes the pretrial intervention pilot project. The agreement to enter the pretrial intervention pilot project will contain a provision for restitution and a payment plan.⁶ The judge may extend participation in the pretrial intervention pilot project for the defendant to complete payment of restitution to the victim.
- (e) The Drug Court Manager shall separately track the individuals in the pretrial intervention pilot project and advise the Administrative Judge of the Circuit

⁶ If the State, victim, and defendant are unable to agree as to the amount of restitution, the judge assigned to a drug court division shall conduct an evidentiary hearing to determine the amount of restitution.

Criminal Division when capacity is reached or if space is available for additional participants.

- (f) In an effort to provide as many individuals as possible with an opportunity to participate in the pretrial intervention pilot project and due to resource limitations, an individual is limited to one second qualifying case if it is a drug offense within the provisions of §948.08(6), Fla. Stat.
- (g) All other provisions of the Administrative Order as to pretrial intervention and termination apply to this pretrial intervention pilot project.

(4) Post Adjudicatory Pilot Expansion Project.

- (a) This program is limited to three hundred fifty (350) defendants who are identified as having a substance abuse problem or substance addiction, meet the requirements for a post adjudicatory drug court program, and qualify pursuant to §§397.334 or 948.01, Fla. Stat.
- (b) The criminal division judge to whom the case is assigned shall direct the defendant seeking entry into the post adjudicatory pilot expansion project to complete a screening assessment to determine if the defendant has a substance abuse problem or substance addiction. The criminal division judge upon receipt of the screening assessment, review of the defendant's criminal history, and sentencing score sheet may transfer the case to a drug court division in lieu of sentencing the defendant to prison after imposing all conditions of probation which shall include the post adjudicatory probation requirements as set forth herein.
- (c) The judge assigned to a drug court division shall order a professional substance abuse/addiction assessment at the defendant's first hearing in the division and reset the defendant for a hearing to determine attendance at the Broward Sheriff's Office Drug Court Treatment Program or approved alternative treatment program as determined by the drug court division judge.
- (d) All other provisions of the Administrative Order that pertain to post adjudicatory drug court and termination apply to this post adjudicatory pilot expansion project.

(5) Post Adjudicatory Drug Court.

- (a) The participation requirements for the drug court program are:
 - (i) A maximum of twenty four (24) months attendance at the Broward Sheriff's Office Drug Court Treatment Program or approved alternative treatment program.
 - (ii) Substantial compliance with all terms of probation; all orders of the court including attendance at status hearings; 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.

- (b) At the one (1) year anniversary of the order of probation the court shall conduct a status conference and determine if:
 - (i) The defendant successfully completed all terms and conditions of probation.
 - (ii) The defendant is successfully finishing all terms and conditions of probation and will complete same within the next twelve (12) months.
 - (iii) The defendant did not successfully complete all terms and conditions of probation and will not complete same within the next twelve (12) months. The court may determine if there are extraordinary circumstances and order continued treatment.
- (c) At the second (2d) anniversary 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 based upon the defendant's failure to successfully complete a post adjudicatory drug court program .
- (d) A defendant may seek early termination of probation upon successful completion of a post adjudicatory drug court program.

- (6) **Discharge from Drug Court.** A defendant participating in a drug court program shall be terminated from drug court if:
- (a) there is an outstanding capias for a period of six (6) months for an individual in a pretrial substance abuse education and treatment intervention program;
 - (b) there is an outstanding capias for a period of three (3) months for an individual in a post adjudicatory drug court program; or
 - (c) new felony criminal charges are filed other than drug crimes encompassed within the provisions of §948.08(6), Fla. Stat.; or
 - (d) violation of probation not encompassed within the provisions of §948.08(6), Fla. Stat.

- (7) This Administrative Order vacates and supersedes Administrative Order Number 2009-54-Crim.

DONE AND ORDERED in chambers at Fort Lauderdale, Broward County, Florida on January 22, 2010.

s/Victor Tobin
Victor Tobin, Chief Judge