

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

Administrative Order No. 2019-71-Crim

**ADMINISTRATIVE ORDER ESTABLISHING AN ALTERNATIVE
SANCTIONS PROGRAM FOR FELONY OFFENDERS**

- (a) Pursuant to Article V, section 2(d) of the Florida Constitution, section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and the power to do everything necessary to promote the prompt and efficient administration of justice.
- (b) Florida Rule of Judicial Administration 2.215(b)(3) states the chief judge “shall, considering available resources, ensure the efficient and proper administration of all courts within [this] circuit.”
- (c) There is a substantial number of technical violations of probation by felons that do not involve a new arrest or other serious violations.
- (d) Arresting and incarcerating certain non-violent offenders for minor and technical violations of probation is both expensive and nonproductive.
- (e) There is research to support that recidivism may be reduced by utilizing collaborative efforts among the courts, probation and law enforcement to hold the offender accountable and apply swift and certain sanctions for technical violations of probation.
- (f) Providing an administrative option for processing technical violations of probation will have the potential to offer benefits including:
- i. Reducing the court docket of probation and violation hearings;
 - ii. Reducing the workload of prosecutors and defense attorneys involved with many technical violation hearings;
 - iii. Reducing law enforcement resources required to serve violation warrants for certain technical violations;
 - iv. Reducing jail population for offenders pending violation hearings; and
 - v. Offering the offender an alternative to a violation hearing in court, which will allow the offender to remain engaged in employment,

school, treatment, etc., and allow the offender to take immediate responsibility for their actions and consequences of those actions.

(g) House Bill 7125, passed by the Florida Legislature and signed into law by Governor Ron DeSantis, amends certain provisions of section 948.06, Florida Statutes (effective October 1, 2019), pertaining to the establishment of alternative sanctioning programs requiring updates to the Circuit’s alternative sanctions program.

(h) In accordance with the authority vested in the Chief Judge by Florida Rule of Judicial Administration 2.215 and section 948.06, Florida Statutes, it is hereby **ORDERED, effective October 1, 2019:**

1. FELONY ALTERNATIVE SANCTIONS PROGRAM. There is created in the Seventeenth Judicial Circuit, Broward County, Florida, a program that shall be known as the Felony Alternative Sanctions Program (herein referred to as “Felony ASP”) for alleged “low risk” and “moderate risk” violations as set forth in Section 3 of this Administrative Order.

2. ELIGIBILITY. To be eligible for the program, offenders must have been placed on probation or community control under the supervision of the Department of Corrections (“Department”) in Broward County, Florida, and have stable community ties. Except as provided herein, offenders who are eligible for the Felony ASP include probation offenders, drug offenders, and community control supervision offenders. The program only applies to offenders who have committed certain “low risk” or “moderate risk” violations. For purposes of this Administrative Order, the definitions of “low risk violation” and “moderate risk violation” contained in section 948.06, Florida Statutes, shall apply. The threat an offender poses to public safety is the most important factor in determining eligibility. A probationer or offender on community control is eligible for an alternative sanction unless excluded pursuant to section 948.06(9)(d), Florida Statutes. Additionally, the following individuals/offenders are not eligible for participation in the Felony ASP: (1) offenders whose supervision offense is a “dangerous crime” as described in section 907.041(4)(a), Florida Statutes, regardless of adjudication; (2) offenders with a lengthy prior criminal history; and (3) persons with cases in repeat offender court, felony drug court, or domestic violence.

3. QUALIFYING “LOW RISK” AND “MODERATE RISK” VIOLATIONS AND APPROVED SANCTIONS. The following matrix lists the specific “low risk” and “moderate risk” violations that may be addressed through the

Felony ASP process for offenders who were sentenced in Broward County, Florida. Each “low risk” and “moderate risk” violation includes a list of sanctions determined and approved by the court for the probation officer to select from when reporting these violations, based on the individual offender’s circumstances at the time of the violation. An offender’s participation in the Felony ASP and completion of any alternative sanction(s) does not alter or reduce an offender’s obligation to complete all other conditions of probation or community control imposed by the court.

**FELONY ALTERNATIVE SANCTIONS PROGRAM
VIOLATION/SANCTION MATRIX**

VIOLATION	APPROVED LIST OF SANCTIONS
Condition (1): Reported late; failed to report as instructed, but reported within 40 calendar days	<ol style="list-style-type: none"> 1. Weekly call in for 2 months 2. Report 2 times per month for 2 months 3. Weekly reporting for 2 months
Condition (2): Failed to pay Cost of Supervision (COS)	<ol style="list-style-type: none"> 1. Submit job search logs to PO weekly 2. No recreational travel for 3 months 3. Submit a monthly budget until payments are current
Condition (3): Failed to report changes in residence or employment without first procuring the officer’s consent (or notifying immediately if evicted from residence or laid off from job), but reported that change within 40 calendar days after the change	<ol style="list-style-type: none"> 1. Weekly call in for 2 months 2. Report 2 times per month for 2 months 3. 8 p.m. to 6 a.m. curfew for 2 months
Condition (3): Failed to request permission prior to leaving the county/country, but did report and/or return within 10 working days after leaving	<ol style="list-style-type: none"> 1. Report 2 times per month for 3 months 2. Report weekly for 2 months 3. 8 p.m. to 6 a.m. curfew for 2 months
Condition (6): Found to be associating with person(s) engaged in criminal activity	<ol style="list-style-type: none"> 1. 8 p.m. to 6 a.m. curfew for 2 months 2. 25 CSH within 30 days

	<ol style="list-style-type: none"> 3. Thinking for a Change (T4C) program
Condition (7): Positive drug test for non-prescribed drugs (first occurrence)	<ol style="list-style-type: none"> 1. Drug evaluation and successfully complete treatment recommended 2. Weekly drug testing for 2 months 3. 8 p.m. to 6 a.m. curfew for 2 months
Condition (7): Positive drug test for non-prescribed drugs (second occurrence)	<ol style="list-style-type: none"> 1. Increase level of treatment up to residential 2. Weekly drug testing for 3 months 3. 8 p.m. to 6 a.m. curfew for 3 months
Condition (8): Failure to maintain employment	<ol style="list-style-type: none"> 1. Attend 3 sessions with DOC Employment Specialist 2. Submit job search logs to PO weekly 3. Complete HBI program
Condition (9): Failure to answer inquiries truthfully (depending on nature of question, response, and reason for being untruthful, consequence will vary)	<ol style="list-style-type: none"> 1. Weekly call in for 2 months 2. 25 CSH within 30 days 3. Thinking for a Change (T4C) program
Condition (9): Failure to comply with officer's instructions (depending on nature of instruction and reason for not complying, consequence will vary)	<ol style="list-style-type: none"> 1. Weekly call in for 2 months 2. 25 CSH within 30 days 3. Thinking for a Change (T4C) program
Condition (10): Failure to pay restitution or court costs when there is 90 days or more remaining on probation	<ol style="list-style-type: none"> 1. Submit job search logs daily (if unemployed) 2. Create a payment plan and budget 3. No recreational travel until current with payments
Condition (11): Failure to submit to random testing as directed	<ol style="list-style-type: none"> 1. Weekly drug testing for 2 months 2. Attend 10 AA/NA meetings within 30 days

	3. 8 p.m. to 6 a.m. curfew for 2 months
Special Condition (1): Failure to attend treatment evaluation or treatment session as scheduled	<ol style="list-style-type: none"> 1. Weekly reporting until evaluation completed or missed session is made up 2. Curfew from 7 p.m. to 6 a.m. until evaluation completed or missed session is made up 3. 25 CSH within 30 days
Special Condition (8): Failure to complete community service hours as instructed	<ol style="list-style-type: none"> 1. Daily call in until current 2. Weekly reporting until current 3. No recreational travel until in compliance
Special Condition (9): Failure to remain at residence during curfew period	<ol style="list-style-type: none"> 1. Weekly reporting for 2 months 2. GPS for 2 months 3. 25 CSH within 30 days
Community Control Condition (16): Failure to maintain approved schedule – unapproved absence from required location (negligence in getting home late, stopping at store on way home without permission)	<ol style="list-style-type: none"> 1. GPS for 2 months 2. 25 CSH within 30 days 3. Thinking for a Change (T4C) program

A. In addition to the sanctions listed above, a probation officer may select any sanction listed in section 948.06, Florida Statutes, for a:

- i. First or second “low risk violation” committed by a probationer.
- ii. First “moderate risk violation” committed by a probationer or an offender on community control.

4. FELONY ALTERNATIVE SANCTIONS PROGRAM PROCESS.

A. The probation or community control officer shall inform offenders who have committed violations enumerated in Section 3 of this Administrative Order that they may participate in the Felony ASP for administrative disposition of the violation. No offender is required to participate in the Felony ASP and may opt for a formal violation of probation proceeding in Circuit Court.

B. If the offender admits the “low risk” or “moderate risk” violation, agrees to accept the administrative sanction recommended by the probation or community control officer, and agrees to waive a formal violation hearing, the probation or community control officer will prepare a Felony Alternative Sanctions Program Technical Violation Notification, which will provide details of the circumstances of the technical violation that occurred and the probation or community control officer’s recommended sanction, based on the sanctions listed in the approved matrix and/or section 948.06, Florida Statutes. If the offender agrees to participate in the Felony ASP, the offender will sign the second section of this form titled Offender’s Waiver of Formal VOP Hearing, Admission of Violation, and Acceptance of Sanctions.¹ These forms as well as the Felony Alternative Sanctions Program Technical Violation Notification will be submitted to the Court, State Attorney, and Defense Attorney via an electronic drop box once the probation or community control officer signs and dates the form. An offender’s prior admission to a “low risk” or “moderate risk” violation may not be used as evidence in subsequent proceedings.

C. The judge shall review the submitted forms and, if the judge agrees that the “low risk” or “moderate risk” violation should be addressed via the Felony ASP and agrees with the recommended sanction, the judge will sign the Order – Felony Alternative Sanctions Program.² If the judge does not agree with the particular sanction recommended by the officer or does not agree that the “low risk” or “moderate risk” violation should be addressed via the Felony ASP, the judge shall reflect further instructions on the order, including directing the Department to submit a violation report, affidavit, and warrant to the court. If the judge rejects the Department’s recommendation to place a Defendant into the Felony ASP, any admission(s) of the “low risk” or “moderate risk” violation by the Defendant given as a condition of agreeing to enter into the Felony ASP may not be used as evidence in subsequent proceedings.

D. Upon court approval, the probation or community control officer will instruct the offender on the sanction imposed by the court and instruct the offender to take actions necessary to ensure the sanction is executed immediately. Failure to complete the imposed sanction as instructed will result in a violation report, affidavit and warrant being submitted to the court for the

¹ The Felony Alternative Sanctions Program Technical Violation Notification and Offender’s Waiver of Formal VOP Hearing, Admission of Violation, and Acceptance of Sanctions is attached to this Administrative Order as Attachment “A”.

² The Order – Felony Alternative Sanctions Program is attached to this Administrative Order as Attachment “B”.

original underlying violation. Failure to complete the imposed sanction shall not constitute additional grounds for violation.

E. No sentencing points will be assessed by virtue of entering into or failing to complete the Felony ASP.

F. This Administrative Order and the Felony ASP shall not affect the Department's use of Technical letters.

5. ADMINISTRATION. The Felony ASP shall be administered by the Broward County Circuit Court of the Seventeenth Judicial Circuit and the Florida Department of Corrections.

6. EFFECTIVE DATE. This Administrative Order shall take effect on October 1, 2019, and shall remain in effect until further order of this Court.

7. This Administrative Order supersedes and vacates Administrative Order 2018-8-Crim on October 1, 2019.

DONE AND ORDERED in Fort Lauderdale, Broward County, Florida, this 17th day of September, 2019.

/s/ Jack Tuter
Jack Tuter, Chief Judge

STATE OF FLORIDA

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

VS

Judge/Division
DC No. _____
Docket/UC No. _____

Defendant

**FELONY ALTERNATIVE SANCTIONS PROGRAM
TECHNICAL VIOLATION NOTIFICATION**

Original Charge: _____
Term of Supervision: _____ to _____
Offender Eligible:
Date of Violation(s): _____ First or Second Violation

Technical violation that occurred: _____

Sanctions/consequence to be imposed in the discretion of the Court: _____

**OFFENDER'S WAIVER OF FORMAL VOP/VOCC HEARING,
ADMISSION OF VIOLATION, AND ACCEPTANCE OF SANCTIONS**

By signing below I understand that I have the right to a formal violation of probation or community control hearing before the Court; however, I am agreeing to waive this right along with waiving the following rights to:

- be represented by legal counsel,
- subpoena and present witnesses and evidence in my defense and to present any defense I might have to the judge,
- require a written statement from a factfinder as to the evidence relied on and the reasons for the sanction imposed,
- see and hear witnesses testify or confront witnesses against me, and
- require the State of Florida to prove my guilt before a neutral and detached hearing body.

I also acknowledge that I am aware of the right to contest and appeal any order entered by the Court and hereby waive this right to appeal all matters except the legality of my sentence. No one has coerced me, pressured me, made any threats against me, or promised me anything to convince me to give up these rights.

I am agreeing to voluntarily participate in the Felony Alternative Sanctions Program and understand I can discontinue participation in the Felony Alternative Sanctions Program at any time before the issuance of the court order imposing the recommended sanction. I am admitting to the technical violation(s) of probation or community control listed above with the understanding that I will be required to complete the additional sanction(s) listed above.

I further understand that if I fail to complete the additional sanction(s) within the time specified, a formal violation of probation or community control report, affidavit and warrant will be forwarded to the Court. I understand that if the Court determines I have violated my probation, I may be sentenced as authorized by law.

I understand the Court reserves the right to accept or reject my request to participate in the Felony Alternative Sanctions Program.

Offender Signature/ Date

Officer Signature /Date

Typed/Printed Name

Typed/Printed Name & Telephone Number

Supervisor Signature/ Date

Original: Clerk of Court
Copies: Offender file
Offender
State Attorney
Defense Attorney

Attachment "B"

STATE OF FLORIDA

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

VS

Judge/Division _____
DC No. _____
Docket/UC No. _____

Defendant

ORDER ALTERNATIVE SANCTIONS PROGRAM

It appears that the Defendant has materially violated one or more conditions of probation or community control but has not committed a new law violation and is otherwise eligible to participate in the Felony Alternative Sanctions Program.

[] The Court has reviewed the Alternative Sanctions Technical Violation Notification and Offender's Waiver of Formal VOP/VOCC Hearing, Admission of Violation, and Acceptance of Sanctions form, a copy of which is attached, and approves the following sanction selected: _____.

Accordingly,

IT IS ORDERED:

- 1. The Defendant shall complete the sanction selected.
2. The Department of Corrections is directed to forward a violation of probation or community control report, affidavit and warrant to the Court in the event the Defendant fails to satisfactorily complete the sanction selected.

OR

[] The Court does not approve the use of the Alternative Sanctions Program and directs the Department of Corrections to submit a violation of probation or community control report, affidavit and warrant to address the alleged violation.

OR

[] The Court hereby sets this matter for a reprimand hearing on _____, 20____. The Defendant and probation officer shall attend this hearing. The Department of Corrections shall provide notice of hearing to the Defendant.

DONE AND ORDERED in Chambers, Broward County, Florida, this _____ day of _____, 20____.

CIRCUIT JUDGE

Original: Clerk of Court
Copies: Offender file
Offender
State Attorney
Defense Attorney