

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

Administrative Order No. 2021-34-Crim

FELONY DRUG COURT DIVISIONS

- (a) Pursuant to Article V, section 2(d) of the Florida Constitution, and 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 General Practice and 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) Section 397.334, Florida Statutes, authorizes the establishment of treatment-based drug court programs to include pretrial treatment-based drug court programs authorized by section 948.08(6)(a), Florida Statutes, and post-adjudicatory treatment-based drug court programs as a condition of probation or community control pursuant to sections 948.01, 948.06, or 948.20, Florida Statutes.
- (d) The proper implementation of the pretrial intervention adult drug court program provides a valuable alternative to prosecution in appropriate cases.
- (e) The adult drug court program provides a substantial benefit to the criminal justice system and the community as a whole for defendants who are identified as having substance abuse disorders, meet the requirements for participation in adult drug court, and qualify pursuant to section 397.334, Florida Statutes, as well as sections 948.01, 948.06, 948.08, or 948.20, Florida Statutes.
- (f) The Florida Supreme Court has adopted the Florida Adult Drug Court Best Practice Standards, which are modeled on the National Association of Drug Court Professionals Adult Drug Court Best Practice Standards, Vol. I (2013) and Vol. II (2015) and intended to clearly define the practices that adult drug courts should implement to adhere to evidence-based principles that have been shown to improve overall court outcomes.

- (g) In accordance with the authority vested in the chief judge by Article V, section 2(d) of the Florida Constitution, section 43.26, Florida Statutes, and Florida Rule of General Practice and Judicial Administration 2.215, it is hereby **ORDERED**:

I. General Provisions

- (1) Florida's Adult Drug Court Best Practices Standards are hereby adopted and, to the extent practical and possible, shall be implemented and utilized by the Circuit's felony drug court programs. Nothing in the Florida Adult Drug Court Best Practices shall supersede any rights afforded to a defendant by the United States Constitution, Florida Constitution, or Florida Statutes.
- (2) Entry into the felony drug court is voluntary and subject to funding for pretrial and post-adjudicatory programs.
- (3) A defendant eligible to participate in felony drug court who elects not to enter into felony drug court or pleads to probation without treatment will have their case transferred to the originally assigned circuit criminal division by the presiding drug court judge.
- (4) The Clerk of the 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 the Court is requiring the entry of an administrative order for internal operating procedure.

II. Pretrial Intervention Drug Court Program

- (1) This program is limited to defendants who qualify pursuant to Florida law and admission to such program may be denied as provided in sections 948.08 and 397.334, Florida Statutes.
- (2) Defendants eligible for participation in the Pretrial Intervention Drug Court Program may enter the program by:
 - a. Referral by the Broward Sheriff's Office of Pretrial Services; or
 - b. A transfer order entered by the drug court judge. A defendant seeking admission to the felony drug court program shall file a written motion

and provide a courtesy copy to the drug court judge. Prior to accepting a defendant into drug court, the presiding drug court judge shall hold a preadmission hearing to determine the defendant's eligibility, evaluating each individual on a case-by-case basis, soliciting input from the drug court team members, and considering, *inter alia*, the availability of suitable treatment options and public safety.

- (3) The Broward Sheriff's Office of Pretrial Services will expeditiously interview on a daily basis the in-custody arrestees to make a preliminary determination as to the eligibility of each to participate in the Pretrial Intervention Drug Court Program and inform the First Appearance Judge. The First Appearance Judge may order the arrestee into the Pretrial Intervention Drug Court Program if the conditions set forth in section 948.08(6), Florida Statutes are satisfied.
- (4) In addition to any other conditions of participation imposed by the Broward Sheriff's Office of Pretrial Services, the following conditions are also imposed:
 - a. The defendant must immediately report to and attend the Pretrial Intervention Drug Court Treatment Program as directed by the Broward Sheriff's Office of Pretrial Services; and
 - b. The defendant must personally appear at all court hearings as instructed by the Broward Sheriff's Office of Pretrial Services officer and/or counselor.
- (5) 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 participation in the Pretrial Intervention 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.
- (6) If an arrested individual posts a cash or surety bond, the Broward Sheriff's Office of Pretrial Services shall review the individual's criminal history to

determine if the arrest was for a qualifying charge and may be eligible for the Pretrial Intervention Drug Court Program.¹

- (7) The Broward Sheriff's Office of Pretrial Services will advise the Clerk of the Court of the cases in which the defendant is out on bond or in the pretrial release program that shall be set in a drug court division for arraignment and/or judicial determination of eligibility to participate in the Pretrial Intervention Drug Court Program.
- (8) **Arraignment.** The defendant, along with their attorney, if one has been appointed or retained, shall be present at arraignment. At arraignment, the defendant may:
 - a. Opt into the Pretrial Intervention Drug Court Program²; or
 - b. Opt out of the Pretrial Intervention Drug Court Program. The case shall be transferred to a non-drug court circuit criminal division for an additional arraignment and further proceedings and the case shall no longer be eligible for the Pretrial Intervention Drug Court Program for dismissal.
- (9) The judge assigned to a drug court division shall order a professional substance abuse assessment at the defendant's first hearing in the division and reset the defendant for a hearing to determine their attendance at the Broward Sheriff's Office Drug Court Treatment Program or approved alternative treatment program as determined by the presiding drug court division judge.
- (10) The participation requirements for the Pretrial Intervention 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

¹ 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 Pretrial Intervention Drug Court Program. The notice shall contain information as to where the arrested individual is to report or who to contact if he or she is interested in receiving additional information.

² If a defendant opts in, he or she shall execute an agreement to comply with the Pretrial Intervention Drug Court Program and all pretrial intervention requirements of the Florida Department of Corrections. The Pretrial Intervention Drug Court Program may require residential treatment.

Program or approved alternative treatment program as determined by the presiding drug court judge.

- b. Full payment of restitution, if applicable, as set forth in paragraph (14) of this Administrative Order.
 - c. Substantial compliance with:
 - i. All terms of the Pretrial Intervention Drug Court Program;
 - ii. All orders of the court, including attendance at all status hearings;
 - iii. The rules and regulations of the Broward Sheriff's Office Drug Court Treatment Program or approved alternative treatment program; and
 - iv. The rules and regulations of the Department of Corrections.
- (11) At the one (1) year anniversary of entry into the Pretrial Intervention Drug Court Program, the court shall conduct a status conference and determine if:
- a. The defendant successfully completed all terms and conditions of the Pretrial Intervention Drug Court Program.
 - b. The defendant is successfully finishing all terms and conditions of the Pretrial Intervention Drug Court Program and will complete same within the next six (6) months.
 - c. The defendant has not successfully completed all the terms and conditions of the Pretrial Intervention Drug Court Program and will not complete same within the next six (6) months. In this case, the presiding drug court judge must:
 - i. Order continued treatment if there exists good cause for such continued monitoring and treatment;
 - ii. Resolve the defendant's case as long as the defendant, the State and the drug court judge agree to resolve the defendant's case in front of the drug court judge; or
 - iii. Transfer the case to the originally assigned criminal division.

- (12) At the eighteen (18) month anniversary of entry into a Pretrial Intervention Drug Court Program, the court shall conduct a status conference and determine whether the defendant successfully completed the requirements of the Pretrial Intervention Drug Court Program. If the defendant has not successfully completed the Pretrial Intervention Drug Court Program, absent a finding of good cause by the presiding drug court judge, the drug court judge must transfer the case to the originally assigned criminal division unless the defendant, the State and the drug court judge agree to resolve the defendant's case in front of the drug court judge.
- (13) Restitution, if applicable, must be determined prior to the defendant's case being transferred to drug court. Once the restitution amount is determined, the defendant must agree, in writing, to a payment schedule for complete payment of restitution. Restitution must be fully paid prior to a defendant's charges being dismissed upon successful completion of treatment, unless the victim agrees to waive restitution, or the court determines, upon appropriate showing, that the defendant is unable to pay. If the court determines the defendant is unable to pay restitution, the presiding drug court judge may consider all alternatives for payment of restitution, including converting the restitution into a civil lien. If a defendant has not fully paid restitution upon their successful completion of treatment, and the victim does not agree to waive restitution and/or the court determines the defendant able to pay, the presiding drug court judge may extend the defendant's participation in drug court for such period as may be necessary for the defendant to comply with their restitution obligation. The presiding drug court judge shall hold routine hearings to inquire into the defendant's compliance with restitution and may enter any such orders as may be necessary to enforce payment of restitution.

III. Post-Adjudicatory Drug Court Program

- (1) This program is limited to defendants who:
 - a. Are identified as having a substance abuse problem;
 - b. Meet the requirements for a Post-Adjudicatory Drug Court Program;
and
 - c. Qualify pursuant to section 397.334, Florida Statutes, section 948.01, Florida Statutes, or section 948.06, Florida Statutes.

- (2) The criminal division judge to whom the case is assigned shall direct the defendant seeking entry into the Post-Adjudicatory Drug Court Program to complete a screening assessment to determine if the defendant has a substance abuse problem. The criminal division judge, upon receipt of the screening assessment and a review of the defendant's criminal history, amenability to services of the program, sentencing score sheet, and the recommendation of the state attorney and the victim, if any, 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. Restitution, if applicable, must be determined prior to the case being transferred to the Post-Adjudicatory Drug Court Program.
- (3) The judge assigned to a drug court division shall order a professional substance abuse assessment at the defendant's first hearing in the Post-Adjudicatory Drug Court Program 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 presiding drug court division judge.
- (4) The participation requirements for the Post-Adjudicatory Drug Court Program are:
 - a. A maximum of twenty-four (24) months attendance at the Broward Sheriff's Office Drug Court Treatment Program or approved alternative treatment program as determined by the presiding drug court judge; and
 - b. Substantial compliance with:
 - i. All terms of probation or community control;
 - ii. All orders of the court, including attendance at all drug court status hearings;
 - iii. The rules and regulations of the Broward Sheriff's Office Drug Court Treatment Program or approved alternative treatment program; and
 - iv. The rules and regulations of the Department of Corrections.

- c. Complete payment of restitution, unless the victim agrees to waive restitution, or the court determines, upon an appropriate showing, that the defendant is unable to pay. If the court makes a determination that the defendant is unable to pay restitution, the presiding drug court judge may consider all alternatives for payment of restitution, including converting the restitution into a civil lien. If a defendant has not fully paid restitution upon their successful completion of treatment, and the victim does not agree to waive restitution and the court determines the defendant has the ability to pay, the presiding drug court judge may extend the defendant's participation in drug court for such period as may be necessary for the defendant to comply with their restitution obligation. The presiding drug court judge shall hold routine hearings to inquire into the defendant's compliance with restitution and may enter any such orders as may be necessary to ensure payment of restitution.

- (5) At the one (1) year anniversary of the order of probation or community control, the court shall conduct a status conference and determine if:
 - a. The defendant successfully completed all terms and conditions of probation or community control.
 - b. The defendant is successfully finishing all terms and conditions of probation or community control and will complete same within the next twelve (12) months or has made sufficient progress towards completing treatment and drug court goals.
 - c. The defendant did not successfully complete all terms and conditions of probation or community control and will not complete same within the next twelve (12) months. The court may determine if there exists good cause for continued treatment.

- (6) At the second anniversary of the order of probation or community control, the court shall conduct a status conference and determine whether the defendant successfully completed the drug court program. If the defendant did not successfully complete the drug court program, absent a finding of good cause by the presiding drug court judge and, if appropriate, an order extending treatment, the court may, at its discretion, keep the case or transfer the case to the originally assigned circuit criminal division by the Clerk of the Court for

all future hearings based upon the defendant's failure to successfully complete the Post-Adjudicatory Drug Court Program.

- (7) The presiding drug court judge shall handle all violations of probation or violations of community control, except for those violations the basis of which constitute a new law violation (other than illegal drug use). In that circumstance, the defendant shall be discharged from drug court pursuant to Section IV(1)d of this Administrative Order and the defendant's case(s) transferred back to the originally assigned circuit criminal division for all further proceedings.
- (8) A defendant may seek early termination of probation upon successful completion of the Post-Adjudicatory Drug Court Program, unless the order of probation issued by the transferring circuit criminal division does not permit early termination.

IV. Discharge from Drug Court

- (1) A defendant participating in a drug court program shall be terminated from a drug court program if:
 - a. There is an outstanding capias for a period of six (6) months for an individual participating in the Pretrial Intervention Drug Court Program; or
 - b. There is an outstanding capias for a period of three (3) months for an individual in the Post-Adjudicatory Drug Court Program; or
 - c. New felony criminal charges are filed against the defendant other than those qualifying offenses encompassed within the provisions of section 948.06(6), Florida Statutes; or
 - d. The defendant violates probation, the basis for which is a new law violation that is an offense that is not encompassed within the provisions of section 948.08(6), Florida Statutes; or
 - e. The drug court judge determines that the drug court cannot safely monitor the defendant or that there is no suitable treatment for the defendant.

This Administrative Order vacates and supersedes Administrative Order 2019-73-Crim.

DONE AND ORDERED in Chambers, Fort Lauderdale, Florida, this 20th day of July, 2021.

/s/ Jack Tuter
Jack Tuter, Chief Judge