

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

**ADMINISTRATIVE ORDER NO. 2025-4-CO
CREATION OF A MENTAL HEALTH COURT PROGRAM WITHIN THE COUNTY
CRIMINAL DIVISION**

(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 that the chief judge "...ensures the efficient and proper administration of all courts within [this] circuit, considering available resources."

(c) Section 394.47892, Florida Statutes, authorizes the establishment of a mental health court program.

(d) The Seventeenth Judicial Circuit has recognized that the creation of problem solving courts within other divisions of the Court has enhanced the expediency, effectiveness and quality of judicial administration.

(e) It is essential that strategies be implemented to focus upon individuals arrested for misdemeanor offenses who are mentally ill or developmentally disabled in view of the unique nature of mental illness and developmental disability, and the need for appropriate treatment in an environment conducive to wellness and not punishment, as well as the continuing necessity to insure public safety, and

(f) There is a recognized need to treat defendants who desire such treatment and are qualified to participate in the court before a Judge learned in the field of mental health

who possesses a unique understanding and ability to expeditiously and efficiently move people from an overcrowded jail system into the mental health system, without compromising public safety.

(g) An increased number of misdemeanor cases involving mentally ill or developmentally disabled defendants can result in congesting and overburdening of the court dockets in the county court criminal division, as well as a jail overcrowding.

(h) A centralized Mental Health program would increase the efficiency of the Criminal Court System in this Circuit.

(i) It is necessary that this circuit utilize available community resources and support to establish a judicial process that will, when appropriate, tailor individualized treatment rather than punishment for the mentally ill and developmentally disabled defendant.

(j) This Circuit has recognized that the administration of such treatment or program is most effective if the defendants qualified to participate in such court do so of their own free choice and volition, and this Circuit specifically recognizes their ability to make that choice and decline entry into the court if they so choose.

(k) The Florida Legislature has defined “developmental disability” in Section 393.063, Florida Statutes.

(l) 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:

(1) A Mental Health Court will be operational within the County Court Criminal Division to hear cases involving defendants arrested for misdemeanors who are suffering

from mental illness or developmental disability, with the exception of those arrested or charged with Driving Under the Influence.

(2) The Sheriff of Broward County will make all reasonable efforts to secure the attendance of all Defendants whose cases are to be heard before the Court, unless effectuating such will cause a danger to the public or the Defendants themselves.

ELIGIBILITY

(1) A defendant is eligible for voluntary admission in the Program, upon motion of either the State or the Defense, or the Court's own motion, if the defendant has previously or currently has been diagnosed by a qualified mental health expert as suffering from mental illness, developmental disability or have manifested obvious signs of mental illness or developmental disability during arrest or confinement or before any court.

(2) Motions for transfer into the program may be made sua sponte by any court or ore tenus, in open court, with the defendant present if feasible, by the Defense or the State accompanied by documentation, testimony, or any other specific evidence that would convince the court in support thereof, and, after referral by the previous court, will be heard by the Judge, assigned to the Mental Health Division. Based upon the evidence presented, the Judge will make the final determination of a defendant's eligibility. Any motion to transfer a defendant into the Program, unless specifically objected to by defense counsel, shall be deemed a waiver of the defendant's right to a speedy trial and formal discovery, other than the providing of documentation relating to defendant's mental health status and all available statements and police reports.

(3) Defendants charged with Battery, Stalking, or Violations of Injunction, may be admitted with the victim's consent.

(4) Defendant's charged with violent misdemeanor offenses which occur at mental health treatment facilities shall be assigned to the Mental Health Division with the victim's consent if obtainable.

(5) If a defendant is eligible for the Program, all of the defendant's eligible misdemeanor cases, including violations of misdemeanor probation, must be consolidated and transferred to the assigned Mental Health Judge. Once a defendant is accepted into the program, appropriate waivers of confidentiality must be obtained.

(6) The Clerk of the Court must assign or transfer all misdemeanor cases, other than domestic violence, but including traffic criminal who preliminarily qualify for admission to the Program.

COMPETENCY

(1) Any defendant adjudged incompetent to proceed or contesting competency shall have his or her case transferred upon filing of a transfer order signed by the Judge stating the reasons for the transfer. The Clerk of Court shall assign the case to the Misdemeanor Mental Health Court for the determination of treatment.

(2) Upon a determination of competency, the Misdemeanor Mental Health Court Judge shall determine whether the case should remain in Misdemeanor Mental Health Court. If it is determined the case does not qualify for Misdemeanor Mental Health Court, it shall be transferred by the Clerk of Court, upon filing of a transfer order, to Division MW, of the County Court Division, with the exception of Domestic Violence cases, which shall be transferred back to Division MV.

(3) Defendants whose cases are qualified for and assigned to Misdemeanor Drug Court pursuant to Administrative Order 2021-10-CO (Amendment 1) and who are declared to be incompetent to proceed are eligible for Misdemeanor Mental Health Court. After a finding that a defendant has been declared incompetent to proceed, the case shall be transferred by the Clerk of Court, upon filing of a transfer order, to Misdemeanor Mental Health Court until such time as the defendant is restored to competency. Once the defendant is restored to competency, the case shall be transferred, upon filing of a transfer order, back to the Drug Court Division, unless the defendant elects to remain in Misdemeanor Mental Health Court to resolve his or her case.

DISCHARGE FROM THE PROGRAM

The defendant will be discharged from the Program based upon any of the following events:

- a. If the Court determines the defendant is not mentally ill or developmentally disabled; or
- b. The defendant indicates that he or she no longer desires participation in the program; or
- c. If the defendant is competent to proceed and request to set for trial, or for hearing or motion to determine legal issues unrelated to mental health; or
- d. The Court determines the defendant is no longer sufficiently participating in or benefiting from the Program; or
- e. The defendant poses a great threat to public safety, and the presiding judge determines Misdemeanor Mental Health Court is no longer proper for the defendant to participate.

f. If a competent defendant is charged with any new offense, the defendant is no longer eligible for the Program without the consent of the Misdemeanor Mental Health Court Judge and the State Attorney as to any or all of the defendant's cases.

DOMESTIC VIOLENCE CASES

1. Misdemeanor domestic violence cases may only be admitted with the victim's consent.
2. Misdemeanor domestic violence cases where competency is being contested, or where the defendant has been found incompetent to proceed, may be transferred from Division MV to Division MI for a determination of competency, at the discretion of the Court.
3. Upon a finding of competence, or if the case is resolved by probation, the case shall then be returned to Division MV.

TRANSFER OF CASES

If a defendant is determined to be ineligible or no longer eligible for the program, the case shall be transferred to Division MW, of the County Court Division with the exception of Domestic Violence cases, which shall be transferred back to Division MV or, if the case had not been previously assigned to another division, randomly assigned by the Clerk of the Court to the appropriate Criminal Division. If the defendant was originally arrested for or charged with a felony, and the defendant is determined to be ineligible for the program, the State may refile the case to a felony and the case shall be transferred and randomly assigned to the general criminal division in Circuit Court. Thereupon, the defendant's right to a speedy trial and formal discovery may be reinstated upon a written demand.

DESIGNATION FROM THE PROGRAM

5. Judge John D. Fry, presently assigned to Division MW, is hereby designated as the Judge assigned to the problem solving mental health court. In that capacity, Judge Fry will be responsible for administering the program and coordinating the role of the judiciary with the functions of the Department of Children and Family Services, Henderson Clinic, Nova Southeastern Outpatient Care Clinic, private mental health care providers, County Court Probation and Broward County Court Alternatives and Pretrial Services Program. Judge Fry will be responsible as first appearance judge for all defendants preliminarily determined to be eligible for the Program who have not previously been brought before the first appearance judge. The holding of said first appearance hearing shall constitute notice to the State and Defense, and the above mental health programs, providers and services to obtain all necessary criminal history and mental health history and input from pertinent victims and witnesses. Judge Fry will still maintain his caseload in his regular County Court Division while serving as Judge of the Mental Health Court in Criminal County Court.

6. In the absence of Judge Fry, the Honorable Ari A. Porth, Circuit Judge, shall serve as his alternate, to enter orders which are necessary, fit and proper, and/or as required by law.

7. This Administrative Order vacates and supersedes Administrative Order VI-00-1-1.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida on this 17th day of January, 2025.

/s/ Jack Tuter
Jack Tuter, Chief Judge