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

ADMINISTRATIVE ORDER NO.: VI-07-N-1

IN RE:

ORDER CONCERNING CREATION
OF THE MISDEMEANOR DIVERSION
PROGRAM FOR THE OFFENSE OF
DRIVING WHILE LICENSE SUSPENDED
_____/

WHEREAS, this Circuit has recognized that the creation of specialized diversion programs have enhanced the expediency, effectiveness, and quality of Judicial Administration;

WHEREAS, it is essential that a new strategy be implemented to focus upon individuals charged with the Misdemeanor Criminal Traffic offense of Driving While License Suspended (DWLS) who seek an opportunity to regain and retain their driving privileges;

WHEREAS, this Circuit recognizes that it is in the interest of Public Safety that its drivers should be encouraged to drive safely with a valid driver's license, with proper equipment, with proper insurance coverage and with sufficient driver education;

WHEREAS, this Circuit recognizes that it in the pursuit of Justice and the Public Interest that individuals be encouraged to pay or make recompense for child support, fines, court costs and other financial responsibilities;

WHEREAS, this Circuit has recognized that the administration of such a program should be open to persons who wish to enter the program provided they follow all rules and regulations as determined by the Broward County Sheriff's Office Probation Department (herein after referred to as "Probation") as well as the State Attorney's Office for Broward County (herein after referred to as "the State");

In accordance with the authority vested in the Chief Judge by Rule 2.050 of the Florida Rules of Judicial Administration it is

NOW AND THEREFORE ORDERED that:

Effective February 1, 2007 persons arrested for or charged with the Misdemeanor Offense of DWLS, who are otherwise eligible, may participate in the Broward County Misdemeanor Diversion Program for DWLS as created by the Broward County State Attorney's Office (herein after referred to as "the Program"). The Program is strictly on a voluntary basis. The Program will be operated and enforced by Probation and the State. An eligible person, or his or her attorney may request admission into the Program within 30 days of the arraignment, or if no arraignment is held due to the filing of a written plea, within 30 days after a written plea of not guilty is filed, or within 30 days of the inception of the Program. The applicant shall apply through the Probation department before the first status conference or calendar call.

I. ELIGIBILITY

A. The applicant must be charged in the instant offense with Misdemeanor DWLS where the license was **only** suspended for failure to pay penalty, failure to appear, failure to complete traffic school (except D.U.I. school), failure to pay child support or failure to satisfy financial responsibility/insurance/judgments.

B. The applicant cannot have been previously or currently classified as a Habitual Traffic Offender.

C. The applicant cannot have had their license previously or currently permanently suspended or revoked.

D. The applicant may not have any convictions or suspensions on his/her license for the offense of DUI or a Chapter 893 violation.

E. The applicant cannot have a prior withhold of adjudication or adjudication for a felony driving/traffic offense in this state or any other jurisdiction.

F. The instant offense cannot have involved a traffic crash where the applicant was deemed by law enforcement to be at fault.

G. The instant offense cannot have been part of a Felony charge or arrest.

H. The applicant cannot have had the instant offense previously disposed of by way of plea or trial, and then subsequently vacated or set aside said plea, conviction or sentence.

I. The instant charge may be for any eligible DWLS charge, but the applicant is **only** allowed to complete the Program once. At the inception of the Program, all eligible charges that the applicant has pending may be included

J. It is permissible for the applicant to have previously entered another diversion program.

K. It is permissible for the applicant to have a limited prior criminal history, except as noted above, but whether such will cause the applicant to be ineligible will be determined by the State on a case-by-case basis.

II. PROGRAM REQUIREMENTS

A. DIVERSION PHASE

1. The applicant, upon acceptance into the Program, must abide by the rules and regulations of the Program, including, but not limited to, a written admission of guilt and an educational component.
2. The participant must take all necessary steps to obtain a valid Florida's Driver's License, including paying or satisfying all outstanding citations, fines and court costs, fees, child support payments and judgments.
3. All vehicles owned and operated by the participant must have valid motor vehicle insurance.

4. All previously cited equipment violations must be corrected.

5. The participant, if necessary, may have to complete driving school, as determined by Probation, and the Department of Highway Safety and Motor Vehicles.

6. The participant must be gainfully employed or actively seek employment. The Broward County Sheriff's Office D.O.C.C. Employment Program can be used to assist with such.

7. While in the Program, any arrest or charge for any criminal offense, or traffic infraction that is a moving violation, will result in automatic termination of the participant's participation in the Program.

8. The participant will have up to 90 days to complete the diversion phase of the Program, but may successfully complete the diversion phase as soon as all conditions are satisfied. The diversion phase of the Program may be extended by Probation only if the participant is unable to complete for financial reasons, but is continuing to make his or her best efforts to do so.

B. <u>DISPOSITION AND PROBATION PHASE</u>

1. Upon successful completion of the above diversion phase, the participant will resolve the DWLS charge by way of a **<u>guilty</u>** plea to the changed charge of No Valid Driver's License, as well as pleading guilty or no contest to any other accompanying charges.

2. The negotiated sentence for the changed charge will consist of an Adjudication to the charge of No Valid Driver's License, six (6) months of non-reporting administrative probation (with no early termination). Special conditions of said probation will be that the participant must maintain a valid driver's license here

in the State of Florida, may not commit any criminal offenses, or civil traffic infractions that are moving violations, and that the participant maintain motor vehicle insurance for all vehicles owned or operated by the participant.

III. PROCEDURAL CONSIDERATIONS

A. If an applicant indicates a desire to participate in the Program, an initial Preliminary Recommendation Memorandum will be completed by an Assistant State Attorney from the County Court division.

B. The applicant shall sign the form and waive his or her Right to Discovery and a Speedy Trial. If the applicant is represented by an attorney, the attorney shall also sign the form. If an interpreter is utilized the interpreter shall also sign the form.

C. The original form (white) shall be filed with the Clerk. The blue copy shall be sent to the Program. The yellow copy shall be kept by the applicant. The pink copy shall be retained by the State.

D. The applicant must obtain a copy of his or her driving record either from the Court Clerk while in the courtroom or at the Clerk of Court counter for a cost, and with such and the yellow copy of the form, the applicant shall go to probation and sign up for the Program no later than the end of the following business day.

E. In order to participate in the Program the applicant must be a legal resident of the United States, with a verifiable address. If the applicant is a citizen of another country, the applicant must provide proof that he or she was in the country legally when the offense was committed.

F. Once accepted, the participant must remain in the country while the case is pending, unless the participant is deployed to active military duty, is a student studying abroad, or is a foreign national who no longer has permission to remain in the United States

G. If the participant has more than one open eligible criminal traffic matter pending, the Clerk shall transfer all eligible criminal traffic matters to the division with the open eligible criminal traffic matter with the earliest incident date, regardless of where located. If the participant has any open traffic infractions (pending or open due to outstanding obligations) that the participant cannot readily dispose of or satisfy, unless the matter has already been submitted to a collection agency, said matters shall be transferred to the division with the open eligible criminal traffic matter with the earliest incident date, regardless of where located. The Program will assist the Clerk in identifying such cases by providing a list of prospective matters for transfer.

H. Once all eligible matters are consolidated before one Judge as noted above, the Judge may dispose of pending outstanding monetary obligations by ordering public works or community service as provided by law. Such may be done in open court or upon review of financial affidavits provided by the Program to the Judge in chambers. If such is ordered, the Program will provide public works projects or community service opportunities and monitor compliance with the Court's orders.

I. It is solely within the discretion of the State to make any exceptions to or waivers of the above eligibility requirements, Program requirements, or procedural considerations.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida on this the 26th day of January, 2007.

/s/DALE ROSS
DALE ROSS, Chief Judge