

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

Administrative Order No. 2018-9-Crim

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

- (a) There is a substantial number of technical violations of probation by misdemeanants that do not involve a new arrest or other serious violations.
- (b) Arresting and incarcerating certain non-violent offenders for minor and technical violations of probation is both expensive and nonproductive.
- (c) 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.
- (d) 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.

(e) 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**:

1. **MISDEMEANOR ALTERNATIVE SANCTIONS PROGRAM.** There is created in the Seventeenth Judicial Circuit, Broward County, Florida, a program that

shall be known as the Misdemeanor Alternative Sanctions Program (herein referred to as “Misdemeanor ASP”) for alleged 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 under the supervision of the Broward Sheriff’s Office by a judge in Broward County, Florida, and have stable community ties. Offenders who are eligible for the program include misdemeanor probation offenders. The program only applies to offenders who have committed certain technical violations addressed in the Misdemeanor Alternative Sanctions Program Violation/Sanction Matrix set forth in Section 3 of this Administrative Order. The threat an offender poses to public safety is the most important factor in determining eligibility. Participation in the Misdemeanor ASP is within the discretion of the trial judge based upon the nature of the underlying offense, an offender’s criminal history, the nature of the alleged violation, and any other factor a judge may lawfully consider. The following individuals/offenders are not eligible for participation in the Misdemeanor ASP: (1) offenders charged with misdemeanor domestic violence, regardless of adjudication; and (2) offenders who have new violations, are absconders, or have violated a “no contact” condition of supervision. An eligible offender may participate in the Misdemeanor ASP no more than three (3) times.

3. **QUALIFYING TECHNICAL VIOLATIONS AND APPROVED SANCTIONS.** The following matrix lists the specific technical violations that may be addressed through the Misdemeanor ASP process for offenders who were sentenced in Broward County, Florida. Each technical violation includes a list of sanctions determined and approved by the court for the probation officer to select from when reporting these technical violations, based on the individual offender’s circumstances at the time of the violation. An offender’s participation in the Misdemeanor ASP and completion of any alternative sanctions does not excuse the offender’s compliance with any other conditions of probation or completion of any statutorily mandated program(s) or requirement(s).

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

VIOLATION	APPROVED LIST OF SANCTIONS
Condition (1): Failed to report changes in residence or employment without first procuring the officer’s consent (or	<ol style="list-style-type: none"> 1. Weekly call in for 30 days 2. Report 2 times per month for 1 month

notifying immediately if evicted from residence or laid off from job)	
Condition (1): Failed to request permission prior to leaving the county/country	<ol style="list-style-type: none"> 1. Report 2 times per month for 2 months 2. Report weekly for 1 month
Condition (2): Reported late; failed to report as instructed, but reported within 20 calendar days	<ol style="list-style-type: none"> 1. Weekly call in for 30 days 2. Report 2 times per month for 1 month
Condition (5): Positive drug test for non-prescribed drugs (first occurrence)	<ol style="list-style-type: none"> 1. Weekly drug testing for 2 months 2. Drug evaluation and treatment, if recommended
Condition (5): Failure to submit to random testing as directed	<ol style="list-style-type: none"> 1. Weekly drug testing for 30 days 2. Attend 10 AA/NA meetings within 10 days
Condition (6): Failure to maintain employment	<ol style="list-style-type: none"> 1. Attend and complete BSO Employability Skills workshop 2. Submit job search logs to officer weekly
Condition (7): 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 30 days 2. Report weekly for 30 days
Condition (8): 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 30 days 2. 16 hours of community service with BSO
Condition (9): Failed to pay Cost of Supervision (COS)	<ol style="list-style-type: none"> 1. Submit job search logs to Officer weekly 2. No recreational travel until payments are current 3. Community service hours with BSO at \$10.00 per hour until payments become current

4. MISDEMEANOR ALTERNATIVE SANCTIONS PROGRAM PROCESS.

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

B. If the offender admits the violation, agrees to accept the administrative sanction recommended by the probation officer, and agrees to waive a formal violation hearing, the probation officer will prepare a Misdemeanor Alternative Sanctions Program Technical Violation Notification, which will provide details of the circumstances of the technical violation that occurred and the probation officer's recommended sanction, based on the sanctions listed in the approved matrix. If the offender agrees to participate in the Misdemeanor 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 Misdemeanor 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 officer signs and dates the form. If the offender elects to discontinue participation in the Misdemeanor ASP, the offender's prior admission to the technical violation may not be used as evidence in subsequent proceedings pursuant to section 948.06(1)(h)7., Florida Statutes.

C. The judge shall review the submitted forms and, if the judge agrees that the technical violation should be addressed via the Misdemeanor ASP and agrees with the recommended sanction, the judge will sign the Order – Misdemeanor Alternative Sanctions Program.² If the judge does not agree with the particular sanction recommended by the officer or does not agree that the technical violation should be addressed via the Misdemeanor ASP, the judge shall reflect further instructions on the order. If the judge does not approve the use of the Misdemeanor ASP, any admission(s) of violation by the Defendant given as a condition of agreeing to enter into the Misdemeanor

¹ The Misdemeanor 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 – Misdemeanor Alternative Sanctions Program is attached to this Administrative Order as "Attachment B."

ASP may not be used as evidence in subsequent proceedings pursuant to section 948.06(1)(h)7., Florida Statutes.

D. Upon court approval, the probation 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 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 Misdemeanor ASP.

5. ADMINISTRATION. The Misdemeanor ASP shall be administered by the Broward County Court of the Seventeenth Judicial Circuit and the Broward Sheriff's Office.

6. EFFECTIVE DATE. This Administrative Order shall take effect on March 5, 2018, and shall remain in effect until further order of this Court.

DONE AND ORDERED in Fort Lauderdale, Broward County, Florida, this 6th day of February, 2018.

/s/ Jack Tuter
Jack Tuter, Chief Judge

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

STATE OF FLORIDA

Judge/Division

Case No. _____

vs.

Defendant

**MISDEMEANOR 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 HEARING,
ADMISSION OF VIOLATION, AND ACCEPTANCE OF SANCTIONS**

By signing below I understand that I have the right to a formal violation of probation 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 Misdemeanor Alternative Sanctions Program and understand I can discontinue participation in the Misdemeanor 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 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 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 Misdemeanor Alternative Sanctions Program.

Offender Signature / Date

Officer Signature / Date

Typed/Printed Name

Typed/Printed Name & Telephone Number

Supervisor Signature / Date

Attachment "B"

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

STATE OF FLORIDA

Judge/Division _____

Case No. _____

VS

Defendant

**ORDER
MISDEMEANOR ALTERNATIVE SANCTIONS PROGRAM**

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

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

Accordingly, it is hereby ORDERED:

1. The Defendant shall complete the sanction selected.
2. The Broward Sheriff's Office is directed to forward a violation of probation 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 Misdemeanor Alternative Sanctions Program and directs the Broward Sheriff's Office to submit a violation of probation 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 Broward Sheriff's Office shall provide notice of hearing to the Defendant.

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

COUNTY COURT JUDGE

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