

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

*Administrative Order 2021-40-Crim*

**VETERANS TREATMENT COURT PROGRAM**

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(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) With the assistance of the United States Department of Veterans Affairs (“Department”), a Veterans Treatment Court Program (“VTC Program”) was established in the Seventeenth Judicial Circuit on May 7, 2012. The Department is able to assist the court with the provision of services for veterans and service members eligible to receive benefits from the Department who are arrested for municipal ordinance violations, misdemeanors, and/or felonies. To this end, the Department has agreed to provide the Circuit with a Veterans Justice Outreach (“VJO”) Coordinator one (1) day per week to act as a liaison between the Court and the Department and to otherwise develop individualized treatment plans for each veteran and/or servicemember in an effort to alleviate the problems that resulted in the veteran’s arrest. Veterans Helping Veterans has also agreed to provide a volunteer mentor program comprised of specially trained volunteers who assist veterans with treatment plan and other needs available from the Department.

(d) Sections 394.47891 and 948.08(7), Florida Statutes, were recently amended, clarifying eligible persons and program procedures for veterans courts, effective July 1, 2021.

(e) In accordance with the authority vested in the Chief Judge pursuant to 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**

- (A) This Administrative Order does not create a right of participation for veterans or servicemembers to participate in a veterans treatment court program.
- (B) An eligible defendant may be admitted to the VTC program at any stage of a criminal proceeding.
- (C) The judge assigned to the VTC Program shall establish the day and time of the hearings.
- (D) A defendant seeking to participate in the VTC Program must submit an application to the state attorney. The state attorney must review each application and determine whether the defendant meets eligibility requirements in section 394.47891(8), Florida Statutes.
- (E) The VJO Coordinator shall be at all court hearings and case staffing, unless otherwise excused by the presiding judge.
- (F) A defendant seeking to participate in the VTC Program must submit an application to the state attorney. The state attorney, in consultation with the presiding VTC Program judge, must review each application and determine whether the defendant satisfies the eligibility requirements.
- (G) To be eligible to participate in the VTC Program, a defendant must demonstrate that they suffer from a military-related mental health condition, service-related traumatic brain injury, service-related substance abuse disorder, or service-related psychological problem or has experienced military sexual trauma; and is a:
  - i. Veteran, as defined in section 1.01, Florida Statutes. The chief judge and state attorney have the exclusive authority to determine whether veterans who have been dishonorably discharged may participate in the Program; or
  - ii. Servicemember, as defined in section 394.47891, Florida Statutes.
- (H) At the time of a person's arrest, booking, or first appearance hearing, an attempt shall be made to determine if the defendant is eligible to participate in the VTC Program. If the person is eligible, his or her name shall be

provided to the VJO Coordinator to determine eligibility for services from the Department. If the person is not eligible for services from the Department but is otherwise eligible to participate in the VTC Program, the person is responsible for demonstrating such eligibility by providing to the presiding VTC Program judge and the State Attorney the following within thirty (30) days:

- i. Proof of diagnosis that they suffer from a military-related mental health condition, service-related traumatic brain injury, service-related substance abuse disorder, or service-related psychological problem or that they have experienced military sexual trauma; and
  - ii. A treatment plan, which shall include, at a minimum, the location at which services will be rendered and the type of services to be provided.
- (I) The Clerk of the Court shall assign all cases to a county or circuit criminal division, subject to the entry of a transfer order signed by the division judge and judge presiding over the VTC Program. Upon issuance of an order transferring the case to the VTC Program, the Clerk of the Court shall assign and designate misdemeanor cases to Division MVC and felony cases to Division VF.
- (J) If a defendant is terminated from the VTC Program for any reason, the case shall be transferred to the originally assigned division for all further proceedings.
- (K) The number of participants may be limited subject to funding for community and Department programs.
- (L) Veterans Helping Veterans is responsible for implementing a mentor program to assist VTC Program participants with their treatment plan and services from the Department.

## **II. Felony Pretrial Intervention**

- (A) A transfer to the pretrial intervention VTC Program may not be ordered until arraignment so as to allow the defendant sufficient time to consult with counsel, voluntarily agree to enter the VTC Program, waive the right to a speedy trial, and review the proposed coordinated strategy while in the pretrial intervention VTC Program, unless an earlier transfer request is expressly made by the defendant.

- (B) The State or defendant may file, or the court may make, *sua sponte*, the motion for transfer. A hearing shall be held with the State, defense counsel, if any, and defendant present to provide evidence or argument as to the propriety of transfer to this court Program.

### **III. Misdemeanor Pretrial Intervention**

- (A) A defendant is eligible for the misdemeanor pretrial intervention VTC Program if he or she satisfies the requirements of section 394.47891, Florida Statutes.
- (B) A transfer to the misdemeanor pretrial VTC Program may not be ordered until arraignment to allow the defendant sufficient time to consult with counsel, voluntarily agree to enter the program, waive the right to a speedy trial, and review the proposed coordinated strategy while in the Program, unless an earlier transfer request is expressly made by the defendant.
- (C) The State or defendant may file, or the court may make, *sua sponte*, the motion for transfer. A hearing shall be held with the State, defense counsel, if any, and defendant present to provide evidence or argument as to the propriety of transfer to the court Program.

### **IV. Felony Post Adjudicatory**

- (A) To be eligible to participate in the felony post-adjudicatory VTC Program, a defendant must be eligible for probation or community control and be convicted of a criminal offense pursuant to Chapter 921, Florida Statutes, and be a:
- i. Veteran, as defined in section 1.01, Florida Statutes, without consideration for the manner in which he or she was discharged or released, if the subject offense(s) was committed prior to July 1, 2021;
  - ii. Veteran, as defined in section 394.47891, Florida Statutes, if the subject offense(s) was committed on or after July 1, 2021;
  - iii. Servicemember, as defined in section 250.01, Florida Statutes, if the subject offense(s) was committed prior to July 1, 2021; or
  - iv. Servicemember, as defined in section 394.47891, Florida Statutes, if the subject offense(s) was committed on or after July 1, 2021.

- (B) Prior to sentencing a defendant to the felony post-adjudicatory VTC Program, the sentencing judge shall consider the defendant's criminal history, military service, substance abuse treatment and/or mental health treatment needs, amenability to services of the Program, and the recommendation of the State Attorney, and the victim(s), if any. Participation in the felony post-adjudicatory VTC Program is voluntary and must be based on the agreement of the defendant.
- (C) The Court, in addition to other conditions, such as supervision by the appropriate agency, may impose a condition requiring a probationer or community controllee to participate in a treatment program capable of treating the individual's diagnosis.
- (D) A defendant seeking a downward departure may be transferred to the felony post-adjudicatory VTC Program if:
- i. A plea of guilty or *nolo contendere* (no contest) is entered before the division judge;
  - ii. A waiver of the right to be sentenced by the division judge is entered on the record;
  - iii. The defendant files a written motion for downward departure as required by law and applicable rules of criminal procedure; and
  - iv. The defendant agrees that if the motion is denied, the judge assigned to the VTC Program may sentence the defendant.

**V. Participants Prior to July 1, 2021**

These updates do not affect or alter the rights or responsibilities of any defendant who, on or before June 30, 2021, was admitted to and participating in the VTC Program.

This Administrative Order supersedes and vacates Administrative Order 2019-74-Crim.

**DONE AND ORDERED** in Chambers, Fort Lauderdale, Broward County, Florida, this 18th day of August, 2021.

/s/ Jack Tuter  
Jack Tuter, Chief Judge