

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

Administrative Order No. 2024-3-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 use 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 (rev. 2023), which are 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 in conjunction with the drug court certification program as established by the Florida Supreme Court. 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.
- (3) The Clerk of the Court shall randomly assign transferred cases to the drug court division as required by any and all directives of an administrative order or 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. Admission to such program may be denied as provided in sections 948.01, 948.06, 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 at First Appearance by the Broward Sheriff's Office Pretrial Services Division; or
 - b. A transfer order entered by the assigned criminal division judge. Prior to transfer being authorized, 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 the Drug Court Program, 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.

The Broward Sheriff's Office Pretrial Services Division will expeditiously interview on a weekly 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.

- (3) If an arrested individual posts a cash or surety bond, the Broward Sheriff's Office Pretrial Services Division may 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
- (4) The Broward Sheriff's Office Pretrial Services Division will advise the Clerk of the Court of the cases 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.
- (5) Entry at Arraignment. The defendant, along with their attorney, if one has been appointed or retained, shall be present in person at arraignment. At arraignment, the defendant may:
 - a. Opt into the Pretrial Intervention Drug Court Program², in which case, the defendant shall undergo a substance use screening at the arraignment to preliminarily determine the course of treatment; or
 - b. Opt out of the Pretrial Intervention Drug Court Program, in which case the case shall be transferred to a non-drug court circuit criminal division for arraignment and further proceedings.
- (7) The participation requirements for the Pretrial Intervention Drug Court Program are:

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 a deferred prosecution agreement with the Pretrial Intervention Drug Court Program, which shall require the defendant to comply with all pretrial intervention requirements of the Florida Department of Corrections and participate in treatment as ordered by the court.

- a. For a period to be determined by the court, based on the clinical needs of the defendant.
- b. Conditioned upon full payment of restitution, if applicable, as set forth in paragraph (9) 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.

If the defendant has not successfully completed the Pretrial Intervention Program although having participated and benefitted from the coordinated strategy for substance use treatment provided by the Drug Court Program, upon the recommendation of the program administrator or the state attorney, the court may continue treatment as recommended by the defendant's clinicians, order a jail-based treatment program, or find that the defendant is not amenable to treatment and order that the defendant be unsuccessfully discharged from Drug Court Program and transferred to the assigned criminal trial division.

- (8) Upon the defendant's successful completion of all substance use treatment recommendations and fulfillment of all terms and conditions of the Pretrial Intervention Drug Court Program, the court shall dismiss the defendant's eligible felonies. The court shall rely upon clinical treatment recommendations in determining when a defendant has successfully completed all treatment.
- (9) Restitution, if applicable, must be determined by the transferring criminal trial division judge or be agreed upon by the parties 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 performing community service. 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 may 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.

- (10) **DISCHARGE FROM PTI DRUG COURT PROGRAM:** A defendant participating in pretrial intervention drug court program shall be terminated from the program if:
- a. There is an outstanding capias for a period of six (6) months; or
 - b. New felony criminal charges are filed against the defendant, other than those qualifying offenses encompassed within the provisions of section 948.08(6), Florida Statutes; or
 - c. The drug court judge determines in its discretion it is impossible or impracticable for the drug court to safely monitor the defendant or that there exists no suitable treatment for the defendant.

III. Post-Adjudicatory Drug Court Program

- (1) This program is limited to defendants who:
- a. Are identified as having a substance use disorder; and is amenable for treatment.

- b. Meet the requirements for the Post-Adjudicatory Drug Court Program pursuant to this Administrative Order; and
 - c. Qualify pursuant to sections 397.334, 948.01, and section 948.06, Florida Statutes.
- (2) The criminal division trial 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 performed by an Adult Felony Drug Court case management court specialist, in conjunction with a clinician from the Broward Sheriff's Office Outpatient Drug Treatment Program, if necessary, to determine if the defendant has a substance use disorder and is amenable to treatment. The criminal division trial judge, upon receipt of the screening assessment recommendation and after completing 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 sentence the defendant to complete the Post-Adjudicatory Drug Court Program as a condition of the defendant's probation in lieu of sentencing the defendant to prison. Restitution, if applicable, must be determined prior to the case being transferred to the Post-Adjudicatory Drug Court Program and shall be included as a condition of the sentence.
- (3) The participation requirements for the Post-Adjudicatory Drug Court Program are:
 - a. for a period to be determined by the court, based upon the clinical needs of the defendant.
 - 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. If a defendant has not fully paid restitution upon their successful completion of treatment, the drug court judge may in its discretion transfer the case back to the original trial division to address restitution or retain the case in drug court to monitor the payment of restitution and all other conditions of probation.
- (4) A defendant may seek early termination of probation from the drug court judge upon successful completion of the Post-Adjudicatory Drug Court Program, but only in accordance with applicable law governing early termination of probation.

Except as set forth in (5)(b) below, the presiding drug court judge shall retain all violation of probation and violation of community control cases even though the new law charges may be pending in a criminal trial division.

- (5) Discharge from Post-Adjudicatory Drug Court Program:
A defendant participating in the Post-Adjudicatory Drug Court Program shall be transferred out of the Program to the criminal division trial judge where the case originated if:

- a. There is an outstanding capias for a period in excess of three (3) months; or
- b. The defendant violates probation, the basis for which is a new criminal offense not encompassed within the provisions of section 948.06(2)(j)(1)(c), Florida Statutes; or
- c. The drug court, in its discretion, determines it is impracticable or impossible to safely monitor the defendant or there is no suitable treatment for the defendant.

This Administrative Order vacates and supersedes Administrative Order 2021-34-Crim.

DONE AND ORDERED in Chambers, Fort Lauderdale, Florida, this 8th day of March, 2024.

/s/ Jack Tuter
Jack Tuter, Chief Judge