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

*Administrative Order 2025-39-CO*

**MISDEMEANOR MENTAL HEALTH COURT**

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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 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 may 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 once the case has been transferred.

(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:

(1) If the Court determines the defendant is not mentally ill or developmentally disabled; or

(2) The defendant indicates that he or she no longer desires participation in the program; or

(3) 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

(4) The Court determines the defendant is no longer sufficiently participating in or benefiting from the Program; or

(5) 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.

(6) 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.

## PRETRIAL DIVERSION PROGRAM

The Misdemeanor Mental Health Court Pretrial Diversion Program (hereinafter referred to as "Diversion") is created within the Seventeenth Judicial Circuit.

(1) Entry into the Diversion Program is voluntary. A defendant who has not previously been convicted of a felony, is eligible for participation in the Diversion Program if:

a. The defendant is identified as having a serious mental illness or developmental disability as defined by s. 393.063(12), Florida Statutes.

b. The defendant is charged with a misdemeanor, excluding any Driving Under the Influence charges.

(2) Defendant's eligible for participation in Diversion may enter the program by:

a. Referral by the Broward Sheriff's Office, the State, the Defense or the Court;

b. A transfer order entered by the assigned criminal division judge; and

c. An application submitted to and approved by the Misdemeanor Mental Health Court Clinical Case Manager.

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

(4) Defendants who do not meet the above eligibility criteria may be considered for admission to Diversion, subject to the agreement of the State Attorney.

(5) Defendants who are and continue to be adjudicated incompetent to proceed are not eligible for admission to Diversion until such time as they are adjudicated competent, provided they voluntarily agree to mental health treatment and services and otherwise satisfy the criteria listed herein.

(6) Notwithstanding any provision, herein, the Court has the ultimate discretion to determine a defendant's eligibility for Diversion consistent with this Administrative Order and section 948.08, Fla. Statutes.

(7) Prior to entering into Diversion, all eligible defendants will be required to waive their right to speedy trial and their right to discovery, except for the limited purpose of a restitution hearing if requested, until such time as they successfully complete Diversion or they are terminated from Diversion.

(8) The participation requirements for Diversion are:

a. For a period up to 12 months, including a minimum of 6 months of treatment. Said period may be reduced by agreement of the State, Defense and the Court.

b. Conditioned upon full payment of restitution, if applicable. 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 mental health court. 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.

c. Substantial compliance with:

i. All terms of the Diversion Program;

ii. All orders of the court, including attendance at all status hearings; and

iii. The rules and regulations of the treatment program.

(9) Upon the defendant's successful completion of all mental health treatment recommendations and fulfillment of all terms and conditions of the Diversion Program, the court shall dismiss the defendant's charges. The court shall rely upon clinical treatment recommendations in determining when a defendant has successfully completed all treatment.

(10) Discharge from Diversion: A defendant participating in Diversion shall be terminated from the program if:

a. There is an outstanding capias for a period of thirty (30) days; or

b. New criminal charges are filed against the defendant; or

c. The mental health court judge determines in its discretion, it is impossible or impractical for the mental health court to safely monitor the defendant or that there exists no suitable treatment for the defendant.

## TRANSFER OF CASES

If a defendant is determined to be ineligible or no longer eligible for any of the mental health programs, 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

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.

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.

This Administrative Order vacates and supersedes Administrative Order 2025-4-CO.

**DONE AND ORDERED** in Chambers, Fort Lauderdale, Florida on this 15th day of October, 2025.

/s/ Carol-Lisa Phillips
Carol-Lisa Phillips, Chief Judge