

ADMINISTRATIVE ORDER  
NO. 2001-19-04

IN THE CIRCUIT COURT OF THE  
NINTH JUDICIAL CIRCUIT, IN AND  
FOR ORANGE COUNTY, FLORIDA

**AMENDED ADMINISTRATIVE ORDER GOVERNING THE FELONY POST-PLEA  
(VIOLATION OF PROBATION) DRUG COURT PROGRAM, ORANGE COUNTY**

**WHEREAS**, pursuant to the success of the Drug Court Program currently in effect in the Criminal Justice Division of the Ninth Judicial Circuit for eligible pre-plea felony drug cases in Orange County, expansion of the Drug Court Program to include eligible post-plea felony violation of probation cases will provide a substantial benefit to the criminal justice system and the community as a whole for defendants who are identified as having a substance abuse problem or substance addiction, meet the requirements for a post-plea drug court program, and qualify pursuant to section(s) 397.334 or 948.01, Florida Statutes; and

**WHEREAS**, section 948.08(6), Florida Statutes, authorizes the chief judge to establish a drug court program to include programs as authorized by section(s) 948.08 and 397.334, Florida Statutes;

**NOW, THEREFORE, I**, Frederick J. Lauten, pursuant to the authority vested in me as Chief Judge of the Ninth Judicial Circuit of Florida, under Florida Rule of Judicial Administration 2.215, hereby order the following, **effective immediately**, to continue until further order and superseding any provisions in prior Administrative Orders which may be inconsistent:

1. **Eligible Offenses**: Offenses eligible for referral to the Drug Court Program are any third degree felonies of chapter 810, Florida Statutes, or any other felony offense that is not a forcible felony as defined in section 776.08, Florida Statutes.

2. **Eligible Violation of Probation Cases:** Violation of probation cases which are eligible for inclusion in Drug Court are those cases where the defendant has violated any technical term of probation or has committed a new criminal offense as stated above in section 1 of this Order. Defendant must reside in Orange County, Florida and have a serious substance abuse problem.

3. **Non-Eligible Violation of Probation Cases:** Violation of probation cases which are not eligible for inclusion in Drug Court are the following:

a. Cases where the defendant has violated probation by the commission of a forcible felony offense as defined in section 776.08, Florida Statutes;

b. Cases where the defendant scores more than 60 points on a score sheet for the violation of probation or for the newly committed criminal offense;

c. Cases where the minimum mandatory state prison sentences are mandated for the violation of probation or newly committed criminal offense.

4. **Non-Eligible Defendants:** Defendants who are not eligible for placement into Drug Court are:

a. Those defendants who have been previously ejected from the pre-plea Drug Court Program.

b. Defendants who score more than 60 points on the scoresheet.

5. The procedure for placement of eligible defendants into Drug Court is as follows:

a. The referral of a defendant into Drug Court may be made by any of the criminal trial divisions with no plea taken, and may be made by defense counsel, the State Attorney's Office, the Court, the Drug Court Office, the Pretrial Services Unit of the Orange

County Department of Corrections, or any other interested party. As part of the referral, the referring person/agency shall initiate the issuance of a Drug Court Referral Form (hereinafter referred to as “Referral Form”) and shall submit the Referral Form to the Drug Court Office or place the Referral Form in any Drug Court Basket in any criminal courtroom for screening and assessment. All necessary information regarding the defendant shall be provided on the Referral Form. Screening and assessment shall include a determination of eligibility of the offense, eligibility of the defendant’s criminal history, severity of substance abuse problem and any current funding body’s additional inclusion or exclusion criteria for program participation.

b. If the Drug Court Office approves the Referral Form, the Drug Court Office shall forward the Referral Form to the Treatment Provider for assessment of suitability of the defendant for participation in Drug Court. At the same time the Drug Court Office will send the original Referral Form to the State Attorney’s Office. Upon receipt of the Referral Form, the State Attorney’s Office shall determine whether or not the defendant is eligible, shall indicate this information on the Referral Form, and shall forward the Referral Form back to the Drug Court Office. The Drug Court Office will then forward the completed Referral Form to the Clerk of Court’s Office for placement of the case on the Drug Court Contract Signing docket. Prior to the contract signing, the defendant shall enter treatment and shall begin random urinalysis testing. The defendant’s progress as to the treatment and random urinalysis testing shall be reported to the Problem Solving Court Judge prior to the defendant being ordered into Drug Court.

c. At the Drug Court Contract Signing if the defendant elects to participate in Drug Court, the defendant shall enter a plea admitting the violation and shall sign the Drug Court

Agreement and waive speedy trial. If the Problem Solving Court Judge agrees that Drug Court is appropriate for the defendant, he/she shall sentence the defendant to a term of no less than three years of probation with a special condition of “the successful completion of Drug Court according to the terms of the Drug Court Agreement.” All other standard and any other special conditions as needed shall be imposed. If the defendant elects not to participate in Drug Court or if the Problem Solving Court Judge determines that the defendant is not appropriate for Drug Court, then the case shall be returned to the original trial subdivision.

d. A copy of the completed Referral Form shall be forwarded by the Drug Court Office, to the assigned trial judge, to defense counsel, and to the State Attorney’s Office.

e. The defendant shall be supervised by the Florida Department of Corrections and case management shall be supplied by the Treatment Provider.

f. Should the defendant be ejected from Drug Court as a result of a program violation, the Florida Department of Corrections shall initiate an affidavit of violation of probation and shall submit the affidavit to the Problem Solving Court Judge. Nothing herein shall prohibit the Florida Department of Corrections from filing a violation of probation for any failure of the defendant to comply with conditions of probation. If the Problem Solving Court Judge determines that there is a legal basis to do so, he/she shall issue a warrant for violation of probation. Upon arrest on the violation of probation warrant, the Problem Solving Court Judge shall resolve the violation of probation proceeding via a plea or hearing and impose a sentence if appropriate. The Court shall not reinstate or resentence the defendant to Drug Court as part of the disposition of the violation of probation.

g. Should the defendant successfully complete Drug Court and comply with all other special and standard conditions of probation (including restitution) the Court shall give due consideration to the early termination of probation.

6. Defendants participating in Drug Court shall pay a fee of \$900.00 dollars to the Drug Court Program. This fee must be paid to the Clerk of Court. The Clerk of Court shall retain \$15.00 from each \$900.00 fee for processing costs. The remainder of those fees, pursuant to an agreement with the Clerk of Court, shall be remitted by the Clerk to the Orange County Drug Abuse Trust Fund (Source Revenue # 4599, a designated account for Drug Court funding goals and objectives) established by the Board of County Commissioners, Orange County. Defendant participants may apply for a fee reduction with the Drug Court Program Office.

7. The procedures in this Order are applicable specifically to eligible post-plea violation of probation felony cases only.

Administrative Order No. 2001-19-03 is vacated and set aside and has been incorporated and/or amended herein. Vacating an Administrative Order that vacates a prior Order does not revive the prior Order.

**DONE AND ORDERED** at Orlando, Florida, this 4<sup>th</sup> day of April, 2016.

\_\_\_\_\_/s/\_\_\_\_\_  
Frederick J. Lauten  
Chief Judge

Copies to:

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Clerk of Courts, Osceola County  
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