

ADMINISTRATIVE ORDER
NO. 2018-07-01

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

**AMENDED ADMINISTRATIVE ORDER GOVERNING
THE ADULT DRUG COURT PROGRAMS**

WHEREAS, section 948.08(6)(a), Florida Statutes, and the inherent authority of the Ninth Judicial Circuit allows for the establishment of a Pre-Trial Substance Abuse Education and Treatment Intervention Program; and

WHEREAS, section 397.334, Florida Statutes, and the inherent authority of the Ninth Judicial Circuit allows for 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 and 948.20, Florida Statutes; and

WHEREAS, the proper implementation of an Adult Drug Court Program will provide a valuable alternative to prosecution in appropriate cases; and

WHEREAS, Adult Drug Court will provide a substantial benefit to the criminal justice system and the community as a whole for defendants who are identified as having substance abuse disorders, meet the requirements for the Adult Drug Court Program, and qualify pursuant to section 397.334, Florida Statutes, as well as section(s) 948.01 or 948.06 or 948.08 or 948.20, Florida Statutes;

NOW, THEREFORE, I, Frederick J. Lauten, in order to facilitate the efficient operation of the administration of justice, and 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 that, **effective immediately** unless otherwise provided herein, to continue until further order, and superseding any provisions in prior Administrative Orders which may be inconsistent:

1. Eligible Offenses and Defendants:

a. Offenses eligible for referral to the Drug Court Program (Program) are any misdemeanor, 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.

b. Violation of probation cases which are eligible for inclusion in the Program are those cases where the defendant has violated any technical term of probation or has committed a new criminal offense as stated above and whose underlying offense includes an eligible offense as stated above.

c. Entry in to the Program will be based on the Court's assessment of the defendant's criminal history, substance abuse screening, amenability to participation, sentencing points (cannot exceed 60 including the case or charge that is coming in to the Program) and the recommendation of the State Attorney and victim (if any) as outlined in 397.334(3)(a), Florida Statutes.

d. If a defendant was previously offered admission to a pretrial substance abuse education and treatment intervention program at any time prior to trial and the defendant rejected that offer on the record, then the court or the state attorney may deny the defendant's admission to such a program, 948.08(6)(a)1, Florida Statutes.

e. If the state attorney believes that the facts and circumstances of the case suggest the defendant's involvement in the dealing and selling of controlled substances, the court shall hold a preadmission hearing. If the state attorney establishes, by a preponderance of the evidence at such hearing, that the defendant was involved in the dealing or selling of controlled

substances, the court shall deny the defendant's admission into a pretrial intervention program, 948.08(6)(a)2, Florida Statutes.

2. The procedure for placement of eligible defendants into Drug Court:

- a. Entry into the Adult Drug Court Program is voluntary.
- b. 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 or Osceola County Department of Corrections, or any other interested party.
- c. 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, in Orange County, place the Referral Form in any Drug Court Basket in any criminal courtroom for screening and assessment.
- d. All necessary information regarding the defendant shall be provided on the Referral Form.
- e. Screening and assessment shall include a determination of eligibility of the offense, eligibility of the defendant's sentencing score (if applicable), and severity of substance abuse problem.
- f. 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 if required by the Program.
- g. 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.

h. Prior to the contract signing, the defendant may enter treatment and 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.

i. At the Drug Court Contract Signing, if the defendant elects to participate in Drug Court and was approved for a post-adjudicatory track, the defendant shall enter a plea to the charges and shall sign the Drug Court Agreement. 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 on a felony case, or an appropriate term on a misdemeanor case, 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.

j. At the Drug Court Contract Signing if the defendant elects to participate in Drug Court and was approved for the diversion track by the State Attorney, the defendant shall sign the Drug Court Agreement and waive speedy trial.

k. At contract signing, 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.

l. If a diversion drug court participant chooses to opt out of drug court at any time, the case may be re-assigned to the subdivision where the case was originally assigned at the

Problem Solving Court Judge's discretion.

m. 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.

n. Post-plea defendants shall be supervised by the Florida Department of Corrections, Orange County Probation, or Osceola County Probation. Defendants shall pay all costs of supervision.

o. Case management shall be provided by the Treatment Provider or Program staff.

p. Should a post-plea defendant be ejected from Drug Court as a result of a program violation, the Florida Department of Corrections or Orange or Osceola County Probation 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.

q. Should a diversion defendant be ejected from drug court because of a program violation, the case may be re-assigned to the subdivision where the case was originally assigned at the Problem Solving Court Judge's discretion.

r. Should a post-plea 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.

s. Should a diversion defendant successfully complete Drug Court, the State Attorney shall file a nolle prosequi.

3. Program Fees:

a. Defendants participating in the Orange County Adult Drug Court Program shall pay a fee of \$900.00 dollars to the Orange County Drug Court Program. This fee must be paid to the Orange County Clerk of Court. The Orange County 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 Orange County Clerk of Court, shall be remitted by the Orange County 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 may apply for a fee reduction with the Orange County Drug Court Program Office.

b. Defendants participating in the Osceola County Adult Drug Court Program shall pay a fee of \$125.00 per month for the duration of their participation in the Program. This amount includes \$90.00 for drug testing and \$435.00 for treatment services. Defendants must also pay a \$25.00 initial services fee to the Osceola County Clerk of Court.

4. Administrative Order Nos. 2018-07, 2000-04-02, 2000-18-06, 2001-19-04, 2003-04-04, and 2007-04-02 are vacated and set aside except to the extent that each 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 8th day of April, 2019.

_____/s/_____
Frederick J. Lauten
Chief Judge

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Clerk of Courts, Osceola County
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