

**AMENDED ADMINISTRATIVE ORDER GOVERNING
ORANGE COUNTY PRETRIAL RELEASE PROGRAM**

The purpose of this Administrative Order is to provide for the efficient and effective processing of criminal cases and related matters.

By the power vested in the chief judge under Article V, section 2(d) of the Florida Constitution, section 43.26, Florida Statutes, and rule 2.215 of the Florida Rules of General Practice and Judicial Administration, **effective January 1, 2024**, to continue until further order and superseding any provisions in prior Administrative Orders which may be inconsistent, it is **ORDERED** that the following procedures are amended as follows:

I. POLICY:

It is the policy of this State that persons committing serious criminal offenses, posing a threat to the safety of the community or the integrity of the judicial process, or failing to appear at trial be detained upon arrest. However, persons found to meet specified criteria shall be released under certain conditions until proceedings are concluded and adjudication has been determined. The policy of pretrial detention and release will assure the detention of those persons posing a threat to society; while reducing the costs for incarceration by releasing, until trial, those persons not considered a danger to the community who meet certain criteria.

II. INELIGIBILITY CRITERIA FOR PRETRIAL RELEASE PRIOR TO FIRST APPEARANCE HEARING¹

Section 903.011(6), Florida Statutes, states in pertinent part: A person may not be released before his or her first appearance hearing . . . if the person meets and of the following criteria:

- (A) the person was, at the time of arrest for any felony, on pretrial release, probation, or community control in this state or another state;
- (B) The person was, at the time of arrest, designated as a sexual offender or sexual predator in this state or any other state;
- (C) The person was arrested for violating a protective injunction;
- (D) The person was, at the time of arrest, on release from supervision under sections 947.1405, 947.146, 947.149, or 944.4731, Florida Statutes.
- (E) The person has, at any time before the current arrest, been sentenced pursuant to section 775.082(9) or section 775.084, Florida Statutes, as a prison releasee

¹ Those crimes that require a First Appearance hearing under section 903.011(6), Florida Statutes, must be held for First Appearance even if a bond is set on the warrant. These criteria also apply to warrants issued prior to January 1, 2024, but not executed until after January 1, 2024.

reoffender, habitual violent felony offender, three-time violent felony offender, or violent career criminal;

- (F) The person has been arrested three or more times in the six (6) months immediately preceding his or her arrest for the current offense; or
- (G) The person's current offense of arrest is for one or more of the following crimes:
 - (1) A capital felony, life felony, felony of the first degree, or felony of the second degree;
 - (2) A homicide under chapter 782; or any attempt, solicitation, or conspiracy to commit a homicide;
 - (3) Assault in furtherance of a riot or an aggravated riot; felony battery; domestic battery by strangulation; domestic violence, as defined in section 741.28, Florida Statutes; stalking; mob intimidation; assault or battery on a law enforcement officer; assault or battery on a juvenile probation officer, or other staff of a detention center or commitment facility, or staff member of a commitment facility, or health services personnel; assault or battery on a person 65 years of age or older; robbery; carjacking; or resisting an officer with violence;
 - (4) Kidnapping, false imprisonment, human trafficking, or human smuggling;
 - (5) Possession of a firearm or ammunition by a felon, violent career criminal, or person subject to an injunction against committing acts of domestic violence, stalking, or cyberstalking.
 - (6) Sexual battery; indecent, lewd, or lascivious touching; exposure of sexual organs; incest; luring or enticing a child; or child pornography;
 - (7) Abuse, neglect, or exploitation of an elderly person or disabled adult;
 - (8) Child abuse or aggravated child abuse;
 - (9) Arson; riot, aggravated riot, inciting a riot, or aggravated inciting a riot; or burglary or theft during a riot;
 - (10) Escape; tampering or retaliating against a witness, victim, or informant; destruction of evidence; or tampering with a jury;
 - (11) Any offense committed for the purpose of benefitting, promoting, or furthering the interests of a criminal gang;
 - (12) Trafficking in a controlled substance, including conspiracy to engage in trafficking in a controlled substance;
 - (13) Racketeering; or

- (14) Failure to appear at required court proceedings while on bail.

III. ORANGE COUNTY PRETRIAL RELEASE PROGRAM:

- A. The Pretrial Services staff designated by the Chief of Corrections shall review inmates for pretrial release (“PTR”) prior to first appearance and for possible court ordered PTR.
- B. The Orange County PTR Program (“Program”) is administered by Corrections. The Program provides supervision of accused persons while they await resolution of their charges. At a minimum, supervision consists of automated telephonic reporting to confirm compliance with court conditions and stability of circumstances. The Program administers random drug and alcohol testing (including, but not limited to, urinalysis, breath test, and any such other commercially available testing), face-to-face appointments if court ordered or a result of the risk assessment².
- C. Once an inmate is enrolled, nothing in this Administrative Order prohibits the Program from applying to the assigned judge for revocation or such other relief as may be appropriate.

IV. ADMINISTRATIVE PRETRIAL RELEASE BEFORE FIRST APPEARANCE:

- A. Unless a judge specifically orders otherwise, a person arrested for a non-violent misdemeanor of the first or second degree, a criminal traffic offense, or a violation of a municipal or county ordinance, except for charges relating to domestic violence or sex crimes pursuant to section 903.011, Florida Statutes, and as provided in Ninth Judicial Circuit Court Administrative Order 2022-03-01, shall be reviewed for possible release into the Program before First Appearance provided that:
 - 1. Pursuant to section 907.041(3)(b), Florida Statutes, the Program certifies to the court that it has investigated or otherwise verified:
 - a. The circumstances of the accused person’s family, employment, character, mental condition and length of residence in the community;
 - b. The accused person’s record of convictions, of appearances at court proceedings, or flight to avoid prosecution, or failure to appear at court proceedings;
 - c. Other facts necessary to assist the court in its determination of the indigence of the accused person and whether she or he should be released under the supervision of the service;
 - d. The accused person must reside in or own real property in the State of Florida.

² The Program utilizes a pretrial risk assessment instrument as a screening tool. The Court is provided a one-page summary of the characteristics of an individual that presents a risk level corresponding to their likelihood to fail to appear in court or be re-arrested prior to the completion of their current case. The risk level is derived based upon answers to questions about various factors. The answers are tallied to produce an overall risk level.

2. In addition, the accused person must meet the following qualifications:

- a. The accused person does not have any current charges related to domestic violence or violation of domestic injunctions or any prior conviction for murder, attempted murder, sex crimes listed in C below, robbery, home invasion, crimes against children, carjacking, or any other capital or life felonies;
- b. The accused person must have a risk assessment of Moderate or below;
- c. The accused person is not currently on bail (monetary or non-monetary), or probation or parole, or other legal constraint;
- d. The accused person has not failed to appear more than 3 times in the last 2 years, as evidenced by the issuance of a capias/warrant unless there is evidence the failure to appear was not willful;
- e. When considering a defendant arrested for a traffic charge, the accused person has not been found guilty of a DUI within the last 12 months or found guilty of 2 DUIs in the last 5 years or deemed an habitual traffic offender;
- f. The accused person's criminal history does not include incarceration in a Department of Corrections facility within the last 5 years;
- g. The accused person is not a high risk sex offender, sex offender/predator, violent felony offender of special concern, habitual violent offender, or identified as career criminal status by FDLE;
- h. The accused person has not exhibited mental illness or behavior indicating he/she might cause harm to himself/herself or another.

B. Pursuant to Florida Rule of Criminal Procedure 3.131, unless a person is charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption of guilt is great, that person is entitled to PTR on reasonable conditions. If no condition of release can reasonably protect the community from risk of harm, assure the accused presence at trial, or assure the integrity of the judicial process, the accused may be detained pursuant to section 907.041, Florida Statutes, and Florida Rules of Criminal Procedure 3.132. It is also the intent of the Legislature to create a presumption in favor of release on nonmonetary conditions for any person who is granted PTR unless such person is charged with a dangerous crime as defined in section 907.041(4), Florida Statutes.

C. No accused person will be released under the Program if charged with a capital, life, first degree felony or other dangerous crime listed below:

1. Arson;
2. Aggravated assault;
3. Aggravated battery;
4. Illegal use of explosives;
5. Child abuse or aggravated child abuse;
6. Abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult;
7. Aircraft piracy;
8. Kidnapping;
9. Homicide;
10. Manslaughter, including DUI manslaughter and BUI manslaughter;

11. Sexual battery;
12. Robbery;
13. Carjacking;
14. Lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years;
15. Sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority;
16. Burglary of a dwelling;
17. Stalking and aggravated stalking;
18. Act of domestic violence as defined in s. 741.28;
19. Home invasion robbery;
20. Act of terrorism as defined in s. 775.30;
21. Manufacturing any substances in violation of chapter 893;
22. Attempting or conspiring to commit any such crime; and
23. Human trafficking;
24. Trafficking in any controlled substance described in s. 893.135(1)(c) 4.;
25. Extortion in violation of s. 836.05; and
26. Written threats to kill in violation of s. 836.

Pursuant to section 907.041(4)(b), Florida Statutes, a person arrested for a dangerous crime MAY NOT be granted non-monetary pretrial release at first appearance hearing if the court has determined there is a probable cause to believe the person has committed the offense.

V. COURT ORDERED PRETRIAL RELEASE:

- A.** Any accused person may be released into the Program after Initial Appearance with a judicial order as more fully set forth below.
- B.** Pursuant to section 907.041(3)(b), Florida Statutes, the Program certifies to the court that it has investigated or otherwise verified:
 1. The circumstances of the accused person's family, employment, character, mental condition and length of residence in the community;
 2. The accused person's record of convictions, of appearances at court proceedings, or flight to avoid prosecution, or failure to appear at court proceedings; and
 3. Other facts necessary to assist the court in its determination of the indigence of the accused person and whether she or he should be released under the supervision of the service.
- C.** Based upon a criminal history investigation, the accused person must meet the following qualifications:
 1. The accused person does not have any current charges listed in IV.C. above;
 2. The accused person is not identified as a high risk sex offender, sex offender/predator, violent felony offender of special concern, habitual violent offender, or in a career criminal status by FDLE;
 3. The accused person is not currently on bail (monetary or non-monetary),

probation or parole, or other legal constraint (if the constraint is an out of state warrant, it will be decided by the Initial Appearance Judge in consultation with PTR); and

4. The accused person has not exhibited mental illness or behavior indicating he/she might cause harm to himself/herself or another.

D. Pursuant to section 903.0351, Florida Statutes, in the instance of an alleged violation of felony probation or community control, bail or any other form of pretrial release shall not be granted prior to the resolution of the probation-violation hearing or the community-control violation hearing to:

1. A violent felony offender of special concern as defined in section 948.06, Florida Statutes;
2. A person who is on felony probation or community control for any offense committed on or after March 12, 2007, and who is arrested for a qualifying offense as defined in section 948.06(8)(c); or
3. A person who is on felony probation or community control and has previously been found by a court to be a habitual violent felony offender as defined in section 775.084(1)(b), a three-time violent felony offender as defined in section 775.084(1)(c), or a sexual predator under section 775.21, and who is arrested for committing a qualifying offense as defined in section 948.06(8)(c) on or after March 12, 2007.

E. However, Section V.D. of this Order shall not apply where the alleged violation of felony probation or community control is based solely on the probationer or offender's failure to pay costs or fines or make restitution payments.

F. No accused person will be released to the Program who does not qualify regardless of any other condition set in conjunction therewith. If an accused person is ordered to PTR or Bond with PTR and it is determined that the accused does not meet the criteria for acceptance into the Program, the jail must notify the judge who ordered the PTR or Bond with PTR (or the first appearance judge if it was ordered on a holiday or weekend) and the accused must then be brought before the first appearance judge to set new terms of release.

G. The Orange County Corrections Department conducts routine assessments of the jail population. If the Chief of Corrections or his/her designee determines that an inmate incarcerated for a non-violent misdemeanor of the first or second degree, a criminal traffic offense, or a violation of a municipal or county ordinance, except for charges relating to domestic violence and has already appeared for First Appearance, qualifies for release based on established criteria as outlined above, then that inmate shall be released into the Program.

H. Release under this Program shall include a condition that the person comply with all orders of the court, appear at all court hearings, refrain from any criminal activity, refrain from contact with any alleged victims, and any other condition specifically ordered by the court. All Program participants will be supervised according to their pretrial risk assessment score. If a person released under this Program violates any condition of release or is arrested for a crime for which probable cause has been

found by a judge, the Program shall apply to the judge assigned to have his/her release revoked and have a warrant issued.

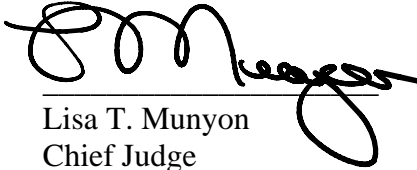
VI. PROGRAM CAPACITY:

If the Program reaches capacity as determined by the Chief of Corrections in consultation with the Chief Judge, no additional accused persons shall be admitted until such time as space becomes available.

VII. VACATING/INCORPORATION OF RELATED ADMINISTRATIVE ORDERS:

Administrative Order 2022-01-01 is vacated and set aside except to the extent that it 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 21st day of December, 2023.



Lisa T. Munyon
Chief Judge

Copies provided to:

Clerk of Court, Orange County
Clerk of Court, Osceola County
General E-Mail Distribution List
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