



ADMINISTRATIVE OFFICE OF THE COURTS
INTER-OFFICE

MEMO 2012-24

TO: Honorable Jeffrey K. Barton
Honorable Marsha Ewing
Honorable Sharon Robertson
Honorable Joseph E. Smith

FROM: Thomas A. Genung, Trial Court Administrator

DATE: June 11, 2012

RE: **Administrative Order 2012-05**
Drug Court Programs

A handwritten signature in black ink, appearing to be "T. Genung", written over the name of the sender.

Attached please find original **Administrative Order 2012-05** for filing with the Court.

If you have any questions regarding the above, please do not hesitate to contact me.

TAG/ms
Attachment

cc w/attach: All Judges in the Nineteenth Judicial Circuit
All Magistrates and Hearing Officers in the Nineteenth Judicial Circuit
All Staff Attorneys in the Nineteenth Judicial Circuit
Honorable Bruce Colton, State Attorney's Office
Honorable Diamond Litty, Public Defender's Office
All County Attorneys in the Nineteenth Judicial Circuit
All Local Law Libraries
All Local Bar Presidents
IT

IN THE CIRCUIT COURT OF THE NINETEENTH
JUDICIAL CIRCUIT IN AND FOR INDIAN RIVER,
MARTIN, OKEECHOBEE, AND ST. LUCIE
COUNTIES, STATE OF FLORIDA.

ADMINISTRATIVE ORDER 2012-05

IN RE: DRUG COURT PROGRAMS

WHEREAS section 397.334, Florida Statutes provides authority for the establishment of treatment-based drug courts in the felony, misdemeanor, and juvenile divisions of the courts; and

WHEREAS, section 39.521(1)(b)1, Florida Statutes and section 397.334, Florida Statutes provide authority for the referral of dependency cases to treatment-based drug courts; and

WHEREAS, the purpose of drug court is to reduce recidivism by emphasizing treatment and rehabilitation as an alternative to incarceration, while also requiring offender accountability; and

WHEREAS, the interests of the State of Florida, criminal defendants, and the administration of justice are best served by having uniform guidelines governing the operation of the Drug Court Program in the Nineteenth Judicial Circuit;

NOW, THEREFORE, pursuant to the authority vested in me as Chief Judge of the Nineteenth Judicial Circuit of Florida under Rule 2.215, Rules of Judicial Administration, it is hereby ORDERED as follows:

1. Any defendant charged by Information, or a parent whose child is the subject of a dependency petition, and who are otherwise eligible under state law, may participate in a Nineteenth Circuit Drug Court Program.

2. TYPES OF DRUG COURT PROGRAMS

- A. There shall be four drug court programs within the Nineteenth Judicial Circuit: a Felony Drug Court, a Misdemeanor Drug Court, a Juvenile Drug Court, and a Dependency Drug Court.
- B. Each type of Drug Court shall be considered operational in a county if a judge is assigned to that type of Drug Court in that county in the annual judicial assignments order.

3. STANDARDS GOVERNING CRIMINAL DRUG COURTS

The following rules and standards shall govern Felony, Misdemeanor, and Juvenile Drug Courts:

- A. The State Attorney's Office shall identify those cases to be heard in Drug Court based on the eligibility requirements set forth in §948.08(2), §948.16(1)(a), or §985.345(1), Florida Statutes, as appropriate. If defense counsel desires to have a case heard in Drug Court, defense counsel must make a request which must be processed and approved by the State Attorney's Office.
- B. While the State Attorney's Office makes the decision as to whether a case will be filed in or transferred to Drug Court, the judge assigned to Drug Court retains the final authority as to whether the case will be accepted into Drug Court. If the judge decides that a case will not remain in Drug Court, the State Attorney's Office and the defense attorney will be notified and the case shall be transferred back to the regular criminal or juvenile docket.
- C. Upon referral of a case to Drug Court, the Clerk shall schedule the case for arraignment at the next available Drug Court date which is at least fifteen (15) days from the date of referral. The Clerk shall send a Notice of Arraignment to all the appropriate parties

including the bondsman, if any. If a defendant fails to personally appear at the Drug Court arraignment, a warrant shall be issued for their arrest and the defendant will no longer be eligible to be admitted to Drug Court unless specifically requested by the State Attorney's Office and approved by the court.

- D. At the arraignment the court shall inquire as to whether the defendant is interested in participating in the Drug Court Program. If the defendant wants to be considered for Drug Court, then the defendant must request a continuance of arraignment, waive speedy trial, and submit to a substance abuse evaluation by a provider approved by the court.
- E. The substance abuse evaluation should occur within fourteen (14) days of the arraignment or within such other time as may be ordered by the court. The evaluation shall provide an overall assessment of the defendant's addiction and the resources needed to address that addiction. The provider who administers the evaluation must use objective standards and criteria and must be licensed by the Department of Children and Families. The evaluator may not self-refer and may not recommend that a defendant be referred to any person or entity that employs them, that is owned in any part by them, or with whom they are professionally associated.
- F. A defendant may voluntarily elect not to have their case heard in Drug Court. If a defendant does not want to participate in Drug Court or after the evaluation is deemed not eligible for Drug Court by the court, the defendant shall be arraigned by the Drug Court Judge and the case shall be set for trial before the appropriate criminal or juvenile judge.
- G. Each defendant has only one opportunity to have their case heard in Drug Court. If a defendant is charged with a new offense and has already had a prior case heard and resolved in Drug Court, the new case will be heard in a regular criminal or juvenile division absent specific approval by the State Attorney's office.
- H. By agreeing to have their case heard in Drug Court, the defendant agrees that no depositions will be taken, no trial dates will be scheduled, and no substantive pre-trial motions will be heard. If a pre-trial motion must be heard, the case shall be transferred back to the appropriate criminal or juvenile judge.
- I. As contemplated by 42 C.F.R. § 2.35, a defendant whose case has been assigned to Drug Court must voluntarily and truthfully provide information to aid the court at each step in the process. As a condition of having their case heard in Drug Court, the defendant must execute a written consent form with a waiver of confidentiality as to treatment as provided in 42 C.F.R. § 2.31, prior to disposition of the case. If the defendant refuses to execute the written consent, the case shall be transferred back to the appropriate criminal or juvenile judge.
- J. Upon being accepted into Drug Court, the defendant will sign an agreement outlining the terms of the conditions of the Drug Court Program. The agreement will be in a format approved by the Administrative Judge for Drug Court. Fees and costs will be determined by each individual county. The Drug Court Judge will also sign this document ordering the defendant to comply with the conditions of Drug Court. The Drug Court Judge will also order the defendant to be released on their own recognizance with the condition that the defendant will fully comply with Drug Court.
- K. The defendant's progress in Drug Court shall be monitored by the Drug Court Judge with input from the multi-disciplinary Drug Court Program Team which shall include but not be limited to the State Attorney, the defendant's attorney, the Drug Court Program coordinators, and others depending on the type of program.
- L. Every defendant in Drug Court must periodically return to court for a judicial review. The purpose of a judicial review is to assess the defendant's level of participation in treatment,

monitor the overall success of treatments, and admonish or encourage the defendant in their attempt at rehabilitation.

- M. If, while in the Drug Court treatment program, the defendant is charged by Information or Indictment with any new offense this will automatically be considered a violation of the terms of the Drug Court treatment program and shall subject the offender to being terminated from the program. The State Attorney may recommend that the offender not be discharged from the program and if agreed to by the Drug Court Judge, the offender may remain in the program.
 - N. If the Drug Court Judge determines that the defendant is not successfully participating in the Drug Court Program, the judge may impose graduated sanctions against the defendant or may discharge the defendant from the Drug Court Program and impose any sanction authorized by law.
 - O. If the defendant successfully completes the Drug Court Program, the defendant will be permitted to withdraw their plea and defense counsel will recommend the charges be dismissed. The State Attorney may then dismiss the charges. The Drug Court Judge will make the ultimate decision as to whether a defendant may graduate from drug court.
 - P. If a defendant qualifies under § 948.01(7) or §948.06(2)(i), Florida Statutes, and the defendant consents, any criminal or juvenile judge may sentence a defendant to attend and complete Drug Court as a condition of probation or community control or as a sanction for violating probation or community control. The defendant will be under the direction and supervision of the drug court judge while in Drug Court. Any warrants alleging violation of this probation shall be presented to and disposed of by the regular criminal or juvenile judge who ordered the defendant to attend Drug Court.
4. ADDITIONAL STANDARDS FOR FELONY DRUG COURT
- A. If, after the evaluation required in section 2(E), the defendant is approved for admission into Felony Drug Court, the defendant shall enter a plea of guilty or nolo contendere to the eligible charge(s), pursuant to Rule 3.172, Florida Rules of Criminal Procedure. Once the plea is accepted, the Felony Drug Court Judge shall then defer sentencing during the defendant's active participation in Felony Drug Court.
 - B. The defendant, while in Felony Drug Court, will be supervised by the Florida Department of Corrections.
 - C. The duration of the Felony Drug Court Program shall be for a minimum of one (1) year.
5. ADDITIONAL STANDARDS FOR MISDEMEANOR DRUG COURT
- A. If, after the evaluation required in section 2(E), the defendant is approved for admission into Misdemeanor Drug Court, the defendant shall enter a plea of guilty or nolo contendere to the eligible charge(s), pursuant to Rule 3.172, Florida Rules of Criminal Procedure. Once the plea is accepted, the Misdemeanor Drug Court Judge shall then defer sentencing during the defendant's active participation in Misdemeanor Drug Court.
 - B. The defendant, while in Misdemeanor Drug Court, will be supervised by CORE.
 - C. The duration of the Drug Court Program shall be for a minimum of six (6) months and no more than one (1) year.
6. ADDITIONAL STANDARDS FOR JUVENILE DRUG COURT
- A. In addition to the State Attorney's office and defense counsel, a Department of Juvenile Justice probation officer, Juvenile Drug Court Team member, judge assigned to the juvenile division, or school district employee may refer a youth to the Juvenile Drug Court Program.

The State Attorney's Office must give final approval for any youth to participate in the program.

- B. If a youth is approved by the State Attorney's Office, and the youth and his/her parent/guardian agree to participate in Juvenile Drug Court, the Juvenile Judge shall order that the youth participate in Juvenile Drug Court. The youth will be required to successfully complete the program.
 - C. The treatment portion of the program will consist of a three-phase treatment model, including individual and group counseling, random urinalysis, and other support services.
 - D. The youth, while in Juvenile Drug Court, will be supervised by the Department of Juvenile Justice.
 - E. The duration of the Drug Court Program shall be for a minimum of six (6) months and no more than one (1) year.
 - F. If the youth is unsuccessfully discharged from the program, the Juvenile Drug Court Judge will impose sentence.
 - G. In the event that a participant incurs a new law violation, his/her new case(s) shall be reviewed by the Drug Court Team to determine if the youth is eligible to continue in the drug court program. The participant will remain in the drug court program if the State Attorney agrees the new case(s) may be admitted into the drug court program. If the Juvenile Drug Court Team concludes that a youth should be removed from the program he/she will be sentenced by the Juvenile Drug Court Judge.
 - H. The Juvenile Drug Court Team will consist of the following: Juvenile Drug Court Judge, Juvenile Drug Court Coordinator, State Attorney, Public Defender, treatment provider(s), Department of Juvenile Justice representative, substance abuse evaluator, drug testing labs and a school district representative.
7. STANDARDS FOR DEPENDENCY DRUG COURT
- A. The purpose of the Dependency Drug Court program is to assist families by addressing the need for substance abuse treatment in identified households. The goal of the Dependency Drug Court program is to provide assistance and resources necessary to overcome addiction and increase the likelihood of family reunification in dependency court.
 - B. Dependency Drug Court participants shall be identified by the Department of Children and Families. Acceptance into the Dependency Drug Court program shall be based on the approval of the Department of Children and Families, parent's attorney, and the Dependency Court Judge.
 - C. A potential participant must either have custody or be seeking custody of a minor child that is the subject of the dependency proceeding.
 - D. In order to be eligible to participate in the Dependency Drug Court, there must be a goal of family reunification in the dependency case.
 - E. After the case is approved for Dependency Drug Court, the Clerk shall transfer the case to the Dependency Drug Court docket. Dependency Drug Court shall be heard on a separate docket. Judicial Reviews shall be heard by either the Dependency Drug Court Judge or the Magistrate hearing dependency cases.
 - F. Participation in Dependency Drug Court is by agreement of the parent or through a case plan. Each participant in Dependency Drug Court must voluntarily and truthfully provide information to aid the court at each step in the process. Each participant must sign a consent form with a waiver of confidentiality for drug treatment. Each participant must sign a Dependency Drug Court Treatment Program Participation Agreement and Order form

prior to entering Dependency Drug Court which has been approved by the Administrative Judge for Drug Court.

8. Administrative Order 2006-11 is superseded by this Order.

SIGNED and ORDERED in quadruplicate in chambers at Stuart, Martin County, Florida on this 2nd day of June, 2012.



STEVEN J. LEVIN
Chief Judge