




ADMINISTRATIVE OFFICE OF THE COURTS
INTER-OFFICE

MEMO 2014-21

TO: Honorable J.R. Smith

FROM: Marc Traum, Deputy Trial Court Administrator 

DATE: April 14, 2014

RE: **Administrative Order 2014-07**
ADMINISTRATIVE ORDER ESTABLISHING A COLLECTIONS
COURT PROGRAM IN INDIAN RIVER COUNTY

Attached please find an original **Administrative Order 2014-07** for filing with the Court.

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

TAG/js
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 CIRCUIT IN AND FOR
INDIAN RIVER COUNTY, FLORIDA**

ADMINISTRATIVE ORDER

2014-07

**ADMINISTRATIVE ORDER ESTABLISHING A
COLLECTIONS COURT PROGRAM IN INDIAN RIVER COUNTY**

WHEREAS, the assessment and provision for payment of fines and costs directly impacts the uniform and equitable treatment of offenders as well as directly impacting limited local resources to defray the costs of prosecution and public defense and the maintenance and operation of the various courts within the Nineteenth Judicial Circuit of Florida; and

WHEREAS, pursuant to sections; 28.246, Florida Statutes addressing Payment of Court-Related Fees, Charges, and Costs; and 938.30, Florida Statutes enacting the Comprehensive Court Enforcement Act, procedures are necessary to improve the assessment and collection of fines and costs in civil and criminal cases; and

WHEREAS, the legislature of the State of Florida has imposed certain statutorily mandated costs in every civil and criminal case; and

WHEREAS, the public perception that the courts and judicial system are providing equitable, equal, and uniform treatment to all who come before the courts, is preserved if all offenders with similar offenses are treated similarly;

NOW, THEREFORE, I, Steven J. Levin, pursuant to the authority vested in me as Chief Judge of the Nineteenth Judicial Circuit of Florida under Florida Rule of Judicial Administration 2.050 hereby order that a Collections Court Program, hereinafter referred to as

“Program”, shall be implemented in Indian River County for the collection of fines, costs in felony, civil, misdemeanor and criminal traffic cases, costs associated with juvenile and dependency cases, costs of prosecution liens, public defender liens, court appointed liens, restitution, county ordinance infractions, municipal ordinance infractions, civil traffic infractions and parking fines all of which are hereinafter collectively referred to as “fines and costs” as follows:

I. Placement under Program:

When fines and costs are imposed at sentencing or reimposed pursuant to a modification or termination of probation, the trial judge may also order any defendant who does not or cannot pay the fines and court costs in full at sentencing or at a date certain not to exceed 120 days, to comply with the terms of the Program.

When sentencing defendants to probation or community service, the trial judge may order the defendants to comply with the payment of fines and costs as a condition of probation instead of the Program.

In cases in which defendants are sentenced and incarcerated to the County Jail or to the Florida Department of Corrections, the judge may reduce all fines and costs to a final judgment and these defendants may be included in the Program once they are released from custody.

II. Notice Form:

At sentencing the trial clerk shall prepare and furnish each defendant who is ordered to comply with the Program a form entitled “Payment Plan Agreement” (hereinafter referred to as “Notice”). The Original Notice shall be signed by the defendant, the clerk or clerk’s agent at the direction of the trial judge, and then placed in the court file. A copy of the Notice shall be furnished to the defendant. If the Defendant is sentenced at First Appearance Hearings via video

conferencing, the Sheriff's Department personnel may provide the Notice to the Defendant at the direction of the Judge and Clerk. The Notice shall advise the defendant of the following:

- 1) The date, time and location of Collections Court.
- 2) The total amount due.
- 3) That the defendant may elect to make equal monthly payments if unable to pay the total amount due.
- 4) Where payments are to be made.
- 5) The date payment is to be made each month until paid in full.
- 6) That the defendant is not required to appear for Collections Court if he/she has paid the full amount or executed a payment plan option agreement.
- 7) That the defendant shall be assessed an administrative fee payable to the Clerk of the Court in the amount of \$5.00 per month for inclusion in the Program.
- 8) That each time the defendant fails to make a scheduled payment on the date specified, an additional administrative fee of \$16.00 payable to the Clerk of Court shall be assessed against the defendant for the costs incurred under the Program.
- 9) That each time a defendant fails to appear for a required Collection Court status hearing and a Writ of Bodily Attachment is issued, an additional administrative fee of \$20.00 shall be assessed against the defendant for the costs incurred under the Program. This administrative fee, when collected, shall be disbursed by the Clerk of Court as follows: \$10.00 to the Clerk of Court; \$10.00 to the Indian River County Sheriff's Office.

III. Clerk of Court's Revenue Collection Office:

The Clerk of Court shall monitor the defendant's compliance with the ordered payment schedule. The Clerk of Court staff may attempt to collect the fines and costs using any reasonable and customary means available. The Clerk of Court staff shall have the authority to modify the payment schedule, but shall not have the authority to relieve the defendant of the responsibility to pay the full amount of fines and costs. If a defendant makes the monthly payments as required under the Program, the defendant will not be required to appear at a Collections Court hearing.

IV. Collections Court Status Hearings:

If a defendant fails to timely make a monthly payment and does not comply with the Court's and Clerk's collection efforts, the defendant may be required to appear at the next scheduled Collections Court status hearing to show legal cause for failure to comply with the payment order.

Judges or Hearing Officers shall preside over the Collections Court status hearings. If a Hearing Officer presides, a Judge's signature must also be obtained on any judgments or orders recommended by the Hearing Officer. For each Collections Court status hearing, clerk staff shall prepare a docket listing each defendant who has failed to make a required payment; when the defendant was sentenced and placed under the Program; the amount of the monthly payment; the amount paid to date; the delinquent amount; and the total amount owed. Clerks and court deputies shall be assigned to assist at each status hearing.

V. Writs of Bodily Attachment:

If a defendant is not current with the required payments and does not appear at the scheduled Collections Court status hearing, the Judge shall order a Writ of Bodily Attachment for the defendant's arrest and delivery to the Indian River County Jail. The Clerk shall prepare

and issue a Writ of Bodily Attachment, which shall contain a purge amount, not to exceed \$250.00 or the total balance owed, whichever is less, and shall forward it to the Indian River County Sheriff's Office. The Clerk shall retain a copy of the Writ of Bodily Attachment in the court file. The Clerk shall send the defendant a postcard or letter stating that a Writ has been issued for the defendant's arrest, and that in order to avoid arrest the defendant must appear at the Clerk's Office and pay the stated purge amount. Prior to the Execution of the Writ, the Clerk of Court shall have the authority through the Collections Court Program to recall the Writ. Defendants who pay the purge amount on the Writ of Bodily Attachment, but who have a remaining balance of fines and court costs must continue to comply with the Program.

In addition to the remaining fines and court costs owed and any fees imposed pursuant to this Order, an administrative fee of \$70.00 shall be assessed upon execution of a Writ of Bodily Attachment for the costs incurred by the Indian River County Sheriff's Office. This administrative fee shall be assessed if the defendant is physically arrested pursuant to the Writ of Bodily Attachment. An additional administrative fee of \$60.00 shall be assessed for the costs incurred by the Indian River County Sheriff's Office when the defendant is booked and held in the Indian River County Jail. These administrative fees, when collected, shall be disbursed by the Clerk of Court to the Indian River County Sheriff's Office.

Defendants held in custody who are unable or unwilling to pay the purge amount required by the Writ of Bodily Attachment shall be brought before a Judge on the first business day following arrest to address their non-compliance with the Program. Hearings for this purpose shall be held before Judge Morgan or Judge Wild or a designee at 8:30 A.M., Monday through Friday. At these hearings, the Judge may reduce the fines and court costs owed to judgment and the Judge may determine whether the defendant must continue to comply with the Program.

VI. Other Legal Remedies for Collection:

This Administrative Order shall not bar the Clerk of Court from taking other legal action in any case to collect fines and costs including suspension of the defendant's driver's license in appropriate cases; pursuing a civil action where legal and appropriate; and pursuing other actions that may be or become legal due to statutory changes.

VII. Effective Date

This Administrative Order shall become effective immediately.

DONE AND ORDERED at Fort Pierce, Florida this 9^r day of April,

2014.



STEVEN J. LEVIN
Chief Judge