

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 2017 - 04

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;

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;

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 (“Drug Court”);

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

1. PARTICIPANTS

- A. Any defendant charged by Information, any juvenile charged by Petition, or any parent whose child is the subject of a dependency Petition, and who is otherwise eligible under state law, may participate in Drug Court.

2. TYPES OF DRUG COURT PROGRAMS

- A. There shall be four Drug Courts 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 a specific county per the annual judicial assignments order executed by the Chief Judge.

3. STANDARDS GOVERNING PRETRIAL INTERVENTION DRUG COURT PROGRAMS

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

- A. Pursuant to §948.08(6)(a), Florida Statutes, any person charged with a nonviolent felony (as such term is defined by Florida Statutes) and who is identified as having a substance abuse problem or is charged with a felony of the second or third degree for purchase or possession of a controlled substance under chapter 893, prostitution, tampering with evidence, solicitation for purchase of a controlled substance, or obtaining a prescription by fraud; who has not been charged with a crime involving violence and who has not previously been convicted of a felony, is eligible for voluntary admission into a pretrial substance abuse education and treatment intervention program, including drug court pursuant to s. 397.334, except if the defendant was offered the program previously on the record and the defendant rejected the admission to the program or, if the state attorney believes that the defendant was involved in the dealing or selling of controlled substances and, if requested by the defense, this belief is demonstrated by the standards set forth in §948.08(6)(a)2, Florida Statutes, in a preadmission hearing.
- B. 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 intentionally fails to personally appear at the Drug Court arraignment, a warrant shall be issued for his/her 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.
- C. At the arraignment, the court shall inquire as to whether the defendant is interested in participating in Drug Court. If the defendant desires 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.
- D. The substance abuse evaluation shall occur after the arraignment of the defendant and before the next scheduled drug court date or at 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 initial evaluation 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.
- E. 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.

- F. 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.
- G. It is imperative that a person who needs substance abuse help receive it immediately. Therefore, the offer of Drug Court may only be accepted by the defendant up and until the Drug Court date scheduled after the initial observation of Drug Court and, after the initial evaluation is complete, unless agreed to by the State Attorney's Office. Once the defendant agrees to have their case heard in Drug Court, the defendant agrees that no further 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 trial judge for resolution.
- H. If, after the initial evaluation required pursuant to section 3(D) of this Order, the defendant is approved for admission into 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 Drug Court Judge shall defer sentencing during the defendant's active participation in Drug Court. The defendant shall execute an agreement which binds him/her to the terms and conditions of Drug Court. 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 the agreement, ordering the defendant to comply with the conditions of Drug Court. Additionally, the Drug Court Judge will order the defendant to be released on his/her own recognizance, with the condition that the defendant will fully comply with all requirements of Drug Court.
- I. The defendant, while in Felony Drug Court, will be supervised by the Florida Department of Corrections.
- J. The duration of the Felony Drug Court Program shall be for an indeterminate period of time but not less than one (1) year, depending on the defendant's success and participation.
- 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 Drug Court, the defendant is charged by Information or Indictment with any new offense, this will be considered a violation of the terms of Drug Court and shall subject the offender to termination from Drug Court, unless the State Attorney recommends that the offender not be discharged from Drug Court and if agreed to by the Drug Court Judge.

- N. If the Drug Court Judge determines that the defendant is not successfully participating in Drug Court, the judge may impose graduated sanctions against the defendant or may discharge the defendant from Drug Court and impose any sanction or sentence authorized by law.

- O. If the defendant successfully completes Drug Court, the defendant will be permitted to withdraw his/her plea and defense counsel will recommend the charges be dismissed. The State Attorney will also recommend dismissal of the charges based upon the defendant's successful completion of Drug Court. Based upon the recommendations of the parties, the Drug Court Judge will then dismiss the charges.

- P. In addition to the participation in the Pretrial Intervention Drug Court Program, a defendant may qualify for Drug Court under §397.334(3)(a), Florida Statutes and may be sentenced 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 judge presiding over the Drug Court pursuant to §397.334(3)(b), Florida Statutes

4. ADDITIONAL STANDARDS FOR MISDEMEANOR DRUG COURT

- A. If, after the evaluation, as required in section 2(D) of this Order, 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 pursuant to 948.16, Florida Statutes.

- B. The defendant, while in Misdemeanor Drug Court, will be supervised by CORE.

- C. The duration of the Misdemeanor Drug Court shall be for a minimum of six (6) months and no more than one (1) year.

5. ADDITIONAL STANDARDS FOR JUVENILE DRUG COURT

- A. If a youth is eligible pursuant to §985.345(1), Florida Statutes, to participate in the 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.
- B. The youth, while in Juvenile Drug Court, will be supervised by the Department of Juvenile Justice.
- C. The duration of Juvenile Drug Court shall be for a minimum of six (6) months and no more than one (1) year.
- D. If the youth is unsuccessfully discharged from Drug Court, the Juvenile Drug Court Judge will impose sentence.
- E. 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 Drug Court. The participant will remain in Drug Court if the State Attorney agrees the new case(s) may be admitted into Drug Court. If the Juvenile Drug Court Team concludes that a youth should be removed from Drug Court, he/she will be sentenced by the Juvenile Drug Court Judge.
- F. 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.


6. 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.

Administrative Order 2012-05 is superseded by this Order.

SIGNED and ORDERED in quadruplicate in chambers at Stuart, Martin County, Florida on this 15th day of February, 2017.


ELIZABETH A. METZGER
CHIEF JUDGE