

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 2021-12
(Superseding and vacating Amended Administrative Order 2016-17)

RE: CRIMINAL ALTERNATIVE SANCTIONS PROGRAM¹

WHEREAS, there are a substantial number of technical violations of probation that do not involve a new arrest or other serious violations; and

WHEREAS, arresting and incarcerating certain non-violent offenders for minor violations of probation is expensive and counterproductive; and

WHEREAS, research that supports that recidivism can be reduced by utilizing collaborative efforts among the courts, probation and law enforcement to hold the offender accountable and apply swift and certain sanctions for technical violations of probation; and

WHEREAS, an administrative option for processing technical violations has the potential to offer benefits including reducing court dockets for probation violation hearings, reducing the workload of prosecutors and defense attorneys involved in technical violation hearings, reducing law enforcement time required to serve violation warrants for certain technical violations, and reducing jail population for offenders waiting for technical violation hearings; and

WHEREAS, offering the offender an alternative to a violation hearing in court permits the offender to remain employed, in school, or in treatment, and further allows the offender to accept immediate responsibility for his/her actions;

NOW THEREFORE, pursuant to the authority conferred by Florida Rule of Judicial Administration 2.215 and Florida Statute 948.06, it is **ORDERED** as follows:

I. ALTERNATIVE SANCTIONS PROGRAM

There is created in the Nineteenth Judicial Circuit a program that shall be known as the Alternative Sanctions Program (the "Program").

II. ELIGIBILITY

To be eligible for the Program, offenders must be placed on probation or community control by the court in Indian River, Martin, Okeechobee and St. Lucie Counties, be under the supervision of the Department of Corrections, have strong community ties, and have a stable residence in a county within the Nineteenth Judicial Circuit. The program is offered only to those

¹ Criminal Alternative Sanction Program applies to offenders under the supervision of the Department of Corrections only.

offenders who have committed technical, non-new law violations for offenses specifically set forth in section 948.06(9)(b) and (c), Florida Statutes.

III. QUALIFYING TECHNICAL VIOLATIONS AND APPROVED SANCTIONS

For a first or second low-risk violation, as defined in section 948.06(9)(b), Florida Statutes, within the current term of supervision, a probation officer may offer an eligible probationer and recommend to the court one or more of the following as an alternative sanction for an alleged violation of probation or community control:

1. Up to 5 days in the county jail
2. Up to 50 hours of community service in addition to those that may have previously been imposed
3. Counseling or treatment
4. Support group attendance
5. Drug testing
6. Loss of travel or other privileges
7. Curfew for up to 30 days
8. House arrest for up to 30 days

For a first moderate-risk violation, as defined in section 948.06(9)(c), Florida Statutes, within the current term of supervision, a probation officer, with a supervisor's approval, may offer an eligible probationer or offender on community control and recommend to the court one or more of the following as an alternative sanction for an alleged violation of probation or community control:

1. Up to 21 days in the county jail
2. Curfew for up to 90 days
3. House arrest for up to 90 days
4. Electronic monitoring for up to 90 days
5. Residential treatment for up to 90 days
6. Any other sanction available for a low-risk violation

Notwithstanding the foregoing, the offender's threat to public safety is the most important factor in determining his/her eligibility. A probationer or offender on community control is not eligible for an alternative sanction if:

1. He or she is a violent felony offender of special concern as set forth in section 948.06(8)(b), Florida Statutes;
2. The violation is a felony, misdemeanor or criminal traffic offense;
3. The violation is absconding;
4. The violation is of a stay-away order or no-contact order;
5. The violation is not identified as low-risk or moderate risk as set forth in 948.06(9), Florida Statutes;
6. He or she has a prior moderate-risk level violation during the current term of supervision; or

7. He or she has three prior low-risk violations during the same term of supervision
8. The term of supervision is scheduled to terminate in less than 90 days; or
9. The terms of the sentence prohibit alternative sanctioning.

In no circumstances shall participation in an alternative sanctioning program convert a withheld adjudication to an adjudication of guilt.

IV. ALTERNATIVE SANCTIONS PROGRAM PROCESS

The probation officer shall inform offenders who have committed violations defined in section 948.06(9)(b) and (c), Florida Statutes, that they may participate in the Program for administrative disposition of the violation. The participation of a probationer or an offender on community control in the program is voluntary. The probationer or offender on community control may waive or discontinue participation in the program at any time before the court imposes a recommended sanction.

If a probationer or offender on community control is eligible for the alternative sanctioning program, he or she may:

1. Waive participation in the program, in which case the probation officer may submit a violation report, affidavit and warrant to the court; or
2. Elect to participate in the program after receiving written notice of an alleged technical violation of supervision and disclosure of the evidence against him or her, and admit the technical violation, agree to comply with the probation officer's recommended sanction if subsequently ordered by the court, and agree to waive the right to:
 - a. Be represented by legal counsel
 - b. Require the State to prove his or her guilt before a neutral and detached hearing body
 - c. Subpoena witnesses and present to a judge evidence in his or her defense
 - d. Confront and cross-examine adverse witnesses
 - e. Receive a written statement from a judge as to the evidence relied on and the reasons for the sanction imposed

If the probationer or offender on community control admits to committing the technical violation and agrees with the probation officers recommended sanction, the probation officer must, before imposing the sanction, submit the recommended sanction to the court with documentation reflecting the probationer's admission to the technical violation and agreement with the recommended sanction.²

Upon review, the court may impose the recommended sanction or direct the department to submit a violation report, affidavit and warrant to the court.³

² See ALTERNATIVE SANCTIONS PROGRAM TECHNICAL VIOLATION NOTIFICATION form attached hereto as Exhibit A.

³ See ORDER ON ALTERNATIVE SANCTIONS PROGRAM form attached hereto as Exhibit B

If the sanction is approved by the court, the probation officer will review the sanction with the offender, and inform the offender that if the probationer or offender on community control discontinues participation in the program or fails to successfully complete all alternative sanctions within 90 days after imposition or within the timeframe specified in the agreed-upon sanction, the probation officer may submit a violation report, affidavit, and warrant to the court. A prior admission by the probationer or offender on community control to a technical violation may not be used as evidence in a subsequent proceeding.

V. ADMINISTRATION

The Program shall be administered by the Circuit Court and the Florida Department of Corrections.

VI. EFFECTIVE DATE

This Order is effective August __, 2021, and supersedes and vacates Amended Administrative Order 2016-17.

DONE AND ORDERED at Ft. Pierce, St. Lucie County, Florida his 24th day of August, 2021.



CHARLES SCHWAB
CHIEF JUDGE

All Judges in the 19th Judicial Circuit
All Clerks of Court in the 19th Judicial Circuit
All Law Libraries in the 19th Judicial Circuit
Office of the State Attorney
Office of the Public Defender
Sheriff's Departments
Police Departments
Department of Correction, D. Michael Davis

EXHIBIT A

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT OF
THE STATE OF FLORIDA IN AND FOR _____ COUNTY**

STATE OF FLORIDA,

CASE NO.:

v.

_____ /

ALTERNATIVE SANCTIONS PROGRAM TECHNICAL VIOLATION NOTIFICATION

Original Charge: _____

Term of Supervision: _____ to _____

Offender Eligible: Yes No

Date of Violation(s): _____ First Violation Second Violation

Low-risk violation Medium-risk violation

Technical violation that occurred: _____

Sanction to be imposed in the discretion of the Court: _____

**OFFENDER'S WAIVER OF FORMAL VOP HEARING,
ADMISSION OF VIOLATION, AND ACCEPTANCE OF SANCTIONS**

By signing below, I understand that I have the right to a formal violation of probation hearing before the Court; however, I am agreeing to waive this right along with waiving the following rights to:

- a. Be represented by legal counsel, and the right to have one appointed if I cannot afford one;
- b. Subpoena and present witnesses and evidence in my defense and to present any defense I might have to the judge;
- c. See and hear witnesses testify and to confront and cross-examine the witnesses against me;
- d. Require the State to prove that I have willfully violated my probation by the greater weight of the evidence; and
- e. Receive a written statement from the judge as to the evidence relied on and the reasons for the sanction imposed.
- f. Appeal all matters except the legality of my sentence.

No one has coerced me, pressured me, made any threats against me, or promised me anything to convince me to give up these rights.

I am agreeing to voluntarily participate in the Alternative Sanctions Program. I am admitting to the technical violation(s) of probation listed above with the understanding that I will be required to complete the additional sanction(s) listed above, as part of my probation.

I further understand that if I fail to complete the additional sanction(s) within the time specified, a formal violation of probation action will be forwarded to the court and this form may be introduced into evidence at a subsequent hearing to establish the violation(s). I understand that if the court determines I have violated my probation, I may be sentenced as authorized by law.

I understand the court reserves the right to accept or reject my request to participate in the Alternative Sanctions Program.

Offenders Signature/Date

Officer Signature/Date

Typed/Printed Name

Typed/Printed Name & Telephone Number

Supervisor Signature/Date

EXHIBIT B

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT OF
THE STATE OF FLORIDA IN AND FOR _____ COUNTY**

STATE OF FLORIDA,

CASE NO.:

v.

_____ /

ORDER ON ALTERNATIVE SANCTIONS PROGRAM

It having appeared that the defendant has materially violated one or more conditions of probation but has not committed a new law violation and is otherwise eligible to participate in the Alternative Sanctions Program:

_____ The Court has reviewed the Alternative Sanctions Program Technical Violation Notification Form, a copy of which is attached, and approves participation in the Alternative Sanctions Program and the sanction(s) selected. As a condition of the defendant's supervision, the defendant shall complete the sanction(s) selected. The Department of Corrections is directed to forward a violation of probation report and warrant to the Court in the event the defendant fails to satisfactorily complete the sanction(s) selected.

OR

_____ The Court has reviewed the Alternative Sanctions Program Technical Violation Notification Form, does not approve the use of the Alternative Sanctions Program, and directs the Department of Corrections to submit a Violation Report, Affidavit, and Warrant to address this alleged violation.

DONE AND ORDERED at _____, _____ County, Florida this _____ day of _____, 20____.

CIRCUIT JUDGE