

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 2022-16
(Superseding Administrative Order 2019-03)

RE: DRUG COURT PROGRAMS

WHEREAS, Section 397.334, Florida Statutes, authorizes the establishment of treatment-based drug court programs to include pretrial treatment-based drug court programs authorized by sections 948.08, 948 and 985.345, Florida Statutes, and post-adjudicatory treatment-based drug court programs as a condition of probation or community control pursuant to sections 948.01, 948.06, or 948.20, Florida Statutes; and

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

WHEREAS, Drug Courts provide a valuable alternative to prosecution in appropriate cases and a substantial benefit to the criminal justice system and community as a whole; and

WHEREAS Administrative Order 2019-03 initially establishing the Nineteenth Judicial Circuit's Drug Court program is to be superseded to incorporate amendments to the Florida Statutes;

NOW, THEREFORE in accordance with the authority vested in the chief judge by Article V, section 2(d) of the Florida Constitution, section 43.26, Florida Statutes, and Florida Rule of General Practice and Judicial Administration 2.215, it is hereby ORDERED effective January 31, 2022:

I. General Provisions

Any defendant charged by Information, Indictment or Citation, or any juvenile charged by Petition who is otherwise eligible under state law may participate in Drug Court.

Entry into a Drug Court Program is voluntary and subject to funding for pretrial and post-adjudicatory programs.

A county court judge assigned to Drug Court shall preside as a circuit judge.

Court Administration staff will facilitate the process by which a defendant is evaluated; coordinate the assessment and treatment of defendants; assist the court in managing its caseload; compile statistics; prepare the cases scheduled on the calendar; and perform other case management functions for the court and defendants as required.

The defendant's progress in Drug Court shall be monitored by the Drug Court judge with input from a multi-disciplinary Drug Court Program Team, which shall include the State Attorney, counsel for the defendant, Drug Court Program coordinators, and others, depending on whether a program is pretrial or post-adjudicatory and whether the participant is an adult or a juvenile.

Every defendant in Drug Court must periodically return to court for judicial review. The purposes of a judicial review are to assess the defendant's participation in treatment, monitor the overall success of treatment, encourage the defendant in the rehabilitative process and, if warranted, sanction the defendant for violations of the conditions of Drug Court.

Florida's Drug Court Best Practices Standards are hereby adopted and, to the extent practical and possible, shall be implemented and utilized by the Circuit's Drug Court program. Nothing in the Florida Drug Court Best Practices Standards shall supersede any rights afforded to a defendant by the United States Constitution, Florida Constitution, or Florida Statutes.

II. Eligible Offenses and Adult Defendants

Offenses eligible for referral to a Drug Court program are any non-violent felonies. A "non-violent felony" means a third degree felony violation under chapter 810 or any other felony offense that is not a forcible felony as defined in section 776.08, Florida Statutes.

Entry of a defendant into a pretrial Drug Court program will be based upon the applicable provisions and factors set forth in sections 397.334, 948.08, and 985.345, Florida Statutes.

Entry of a defendant into a post-adjudicatory Drug Court program as a condition of probation or upon a finding of a violation of probation or community control will be based on the applicable provisions and factors set forth in sections 397.334, 948.01, 948.06, and 948.20, Florida Statutes.

Generally, defendants must reside in a county within the Nineteenth Judicial Circuit and participate in the Drug Court program in their county of residence. The court may allow participation by a defendant residing outside the Nineteenth Judicial Circuit under limited circumstances. When a defendant resides in a county that is not within the Nineteenth Judicial Circuit, Court Administration staff will initiate a transfer request, provided an equivalent Drug Court program is available in the defendant's county of residence.

III. Procedure for Placement of Eligible Adult Defendants in Drug Court

A. Pretrial Participation

1. Upon referral of a pretrial defendant to Drug Court, the Clerk shall schedule a Drug Court observation at the next available Drug Court date, provided notice can be given. The Clerk shall send a notice of the observation to the parties and appropriate persons, including the bondsman, if any. If the court finds that a defendant intentionally failed to personally appear at the observation, a bench warrant shall be issued, and the defendant will no longer be eligible to enter Drug Court, unless specifically approved by the court.
2. The court shall inquire at the end of the defendant's observation as to whether the defendant is interested in participating in Drug Court. If a defendant elects not to participate in Drug Court, the defendant's case shall be reassigned to and set for further proceedings before the appropriate trial judge.
3. If the defendant elects to participate, the defendant must waive speedy trial and agree to a risk/needs assessment. The assessment shall occur before the next scheduled drug court date or at such other time as may be ordered by the court. The assessment shall provide the court an overall evaluation of the defendant's substance abuse problems and identify treatment resources to address them.
4. If after the assessment the defendant is approved to enter Drug Court, the defendant shall enter a plea of guilty or nolo contendere to the eligible offense(s), pursuant to Rule 3.172, Florida Rules of Criminal Procedure. Once the plea is accepted, the Drug Court judge will enter an order placing the defendant in Drug Court and releasing the defendant on his/her own recognizance and requiring that the defendant fully comply with all the requirements of Drug Court. Sentencing will be deferred during the defendant's active participation in Drug Court.

5. If a defendant is arrested or charged with any new offense while participating in Drug Court, the defendant may no longer be eligible for Drug Court. After receiving input from the Drug Court Program Team, the presiding Drug Court judge shall make the decision as to whether the defendant will be permitted to remain in Drug Court.
6. Pursuant to the provisions of section 948.08(6)(e), Florida Statutes, if the court finds a defendant has successfully completed Drug Court, the court shall dismiss the defendant's charges. If the court finds that a defendant's participation in Drug Court is unsatisfactory, the Drug Court judge may order the defendant to continue education and treatment, impose sanctions or discharge the defendant from Drug Court and impose sentencing.

B. Post-Adjudicatory Participation

1. A defendant who meets the criteria for Drug Court set forth in section 397.334(3)(a), Florida Statutes, 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.
2. Such a defendant shall be under the direction of the Drug Court judge while participating in the program. Any warrants alleging violation of probation or community control shall be presented to and disposed of by the Drug Court judge in accord with section 397.334(3)(b), Florida Statutes.

IV. Felony Drug Court – Duration and Supervision

The duration of participation in 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 participation and progress in the program. The defendant will be supervised by the Florida Department of Corrections.

V. Juvenile Drug Court

The duration of participation in the Juvenile Drug Court program shall be for an indeterminate period of time, not to exceed the juvenile's nineteenth (19th) birthday, but not less than six (6) months, depending on the defendant's participation and progress in the program. The participating youth will be supervised by the Department of Juvenile Justice (DJJ).

There shall be a multidisciplinary Juvenile Drug Court Team that consists of the Juvenile Drug Court judge, Juvenile Drug Court coordinator, the State Attorney, the Public Defender, treatment provider(s), a DJJ representative, a substance abuse evaluator, drug testing labs, and a school district representative.

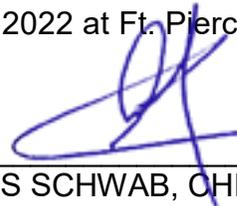
If a juvenile is arrested or charged with any new offense while participating in the Drug Court, he/she may no longer be eligible for Drug Court. After receiving input from the Juvenile Drug Court Team, the presiding Drug Court judge shall make the decision as to whether the defendant will be permitted to remain in Juvenile Drug Court.

If a juvenile's participation in Juvenile Drug Court is deemed unsatisfactory, the Juvenile Drug Court judge may impose sanctions or discharge the youth from the Juvenile Drug Court program and impose sentencing.

VI. Previous Administrative Order Superseded

Administrative Order 2019-03 entered April 4, 2019 is hereby superseded and vacated.

DONE AND ORDERED this 12th day of January, 2022 at Ft. Pierce in St. Lucie County, Florida.



CHARLES SCHWAB, CHIEF JUDGE