

**IN THE THIRTEENTH JUDICIAL CIRCUIT
HILLSBOROUGH COUNTY, FLORIDA**

**ADMINISTRATIVE ORDER S-2015-012
(Supersedes Administrative Order S-2014-065)**

VETERANS TREATMENT COURT

In furtherance of implementing provisions of the “T. Patt Maney Veterans’ Treatment Intervention Act” (sections 16–20 of Chapter 2012-159, Laws of Florida), it is necessary and appropriate to make changes to the current Hillsborough County Veterans Court to focus on a greater number of veterans suffering from military-service related mental illness, traumatic brain injury, substance abuse disorder, or psychological problems who enter the criminal justice system.

Consolidation of the separate misdemeanor and felony veterans treatment courts will facilitate continued effective and efficient operation of a Veterans Treatment Court. This consolidated specialized Veterans Treatment Court will enable consideration of the unique nature of the issues related to veterans, the need for appropriate treatment in an environment conducive to wellness, as well as the continuing necessity to ensure the protection of the public.

The Veterans Treatment Court will expeditiously and efficiently divert veterans with service-related issues into available veteran treatment programs without compromising the safety of the public. This specialized court division will increase the efficiency of the criminal court system and permit access to state, local and federal services and resources by utilizing Veterans Administration and Veteran Mentor Volunteer resources and support systems.

The Veterans Treatment Court consists of both a Pretrial Intervention Program component and a Post-Adjudicatory component.

The State Attorney’s Office and the Public Defender’s Office have jointly agreed to the parameters for the Veterans Treatment Court which are intended to be memorialized in a Memorandum of Understanding (MOU). The MOU will provide detailed instructions for the processing of cases in the Veterans Treatment Court. The MOU may be amended by stipulation between the State Attorney’s Office and the Public Defender’s Office after consultation with the Veterans Treatment Court Oversight Committee.

By the authority vested in the chief judge under article V, section 2(d), Florida Constitution; section 43.26, Florida Statutes; and Florida Rule of Judicial Administration 2.215(b)(2), it is therefore **ORDERED**:

1. Establishment

Circuit Criminal Division “V” is hereby established as the Veterans Treatment Court division handling all eligible cases. Cases previously pending in County Criminal Division “V” will be transferred to Circuit Criminal Division “V.”

2. Limited Caseload

Subject to the availability of resources, the presiding Veterans Treatment Court judge is empowered with discretion to temporarily suspend the transfer or direct filing of any eligible cases into the Veterans Treatment Court. If the presiding judge decides to temporarily suspend the transfer or direct filing of any future eligible cases into Veterans Treatment Court, the judge must provide written notice of the suspension to the Public Defender’s Office, the State Attorney’s Office, the Clerk of Court (clerk), the Veterans Administration, the administrative judge of Circuit Criminal Division, and the chief judge.

3. Eligibility of Pretrial Intervention Program Cases

In order to participate in the Pretrial Intervention Program component of the Veterans Treatment Court, a defendant must meet the following criteria:

A. Veteran or Servicemember

The defendant is a veteran as defined by section 1.01, Florida Statutes, or a servicemember as defined by section 250.01, Florida Statutes.

B. Service-Related Condition

The defendant suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem.

C. Eligible for VA Services

The defendant is eligible to receive services for evaluation and treatment planning through the Veterans Administration and Veteran Mentor Volunteer resources and support systems, or other available court-approved state, local, or federal resources.

D. Voluntary Participation

The defendant voluntarily agrees to participate in the Veterans Treatment Court.

E. Waiver of Speedy Trial

The defendant voluntarily agrees to waive speedy trial.

F. Provision of Necessary Information

The defendant agrees to provide necessary information to the court and collaborating entities, as well as allowing the court and entities involved in the treatment process and planning access to confidential patient treatment records.

G. Eligible Criminal Offense

The defendant must be charged with an eligible criminal offense as specified below:

i. City or County ordinance violation;

ii. Misdemeanor offense, other than DUI;

iii. Nonviolent third degree felony offense, other than felony DUI or a felony listed in section 948.06(8)(c), Florida Statutes. The term “nonviolent third degree felony offense” means a third degree felony violation of chapter 810, Florida Statutes, or any other third degree felony offense that is not a forcible felony as defined in section 776.08, Florida Statutes;

iv. Any other criminal charge to which the State Attorney’s Office consents, other than a felony listed in section 948.06(8)(c), Florida Statutes.

H. Additional Opportunities to Participate

If a defendant was previously offered admission to the Pretrial Intervention Program component of the Veterans Treatment Court at any time before trial and the defendant rejected that offer on the record, or if a defendant previously entered a court-ordered veterans treatment program, the defendant may participate in the Veterans Treatment Court program only if the defense counsel, State Attorney’s Office and the presiding judge in the Veterans Treatment Court all agree that the defendant is amenable and appropriate for entry into the program.

4. Intake of Pretrial Intervention Program Cases

A. Transfer by Clerk

Efforts should be made to identify potentially eligible defendants as early in their entrance to the criminal justice system as possible. The task of initial identification should be the responsibility of all entities involved, including the court, defense counsel, the Office of the State Attorney, the Hillsborough County Sheriff’s Office at booking, and the defendant. The issue of eligibility for Veterans

Treatment Court may be raised at any court proceeding by the defendant, defense counsel, the Office of the State Attorney, or the court, during which the waiver of speedy trial requirement must be addressed. Unless the presiding judge has provided notice of a temporary suspension of any future eligible cases into Veterans Treatment Court under section two of this administrative order, if any entity involved in the proceedings indicates on the record the belief that the defendant is eligible for the Pretrial Intervention Program component of Veterans Treatment Court and the presiding judge finds that the defendant appears to be eligible, the court will transfer the case to the Veterans Treatment Court. The clerk will set the case on the next Veterans Treatment Court docket. This transfer will occur without the necessity of a written court order.

B. Cases Filed Directly into Veterans Treatment Court

If cases that appear to be eligible for the Pretrial Intervention Program component of the Veterans Treatment Court are identified prior to the State Attorney's Office filing criminal charges, the case may be directly filed into Veterans Treatment Court unless the presiding judge has provided notice of a temporary suspension of any future eligible cases under section two of this administrative order.

C. Assessment by Veterans Administration

Prior to the first hearing in Veterans Treatment Court, the defendant should be assessed by the Veterans Administration Criminal Outreach Liaison for verification that the defendant meets eligibility criteria in subsections 3 A, B, and C of this administrative order.

D. Confirmation of Eligibility

At the defendant's first hearing in Veterans Treatment Court, the presiding judge will confirm the defendant's eligibility for the program, provide appropriate instructions and information about the program, and confirm the defendant's willingness to enter into a participation agreement and take part in treatment.

E. Discharge from Veterans Court

If at any point it is determined that the defendant is not eligible for or unwilling to participate in Veterans Treatment Court, or the defendant is otherwise unsuccessfully discharged from Veterans Treatment Court, the case will be transferred back to the criminal division from which it originated. If the case was not assigned to a criminal division prior to transfer to Veterans Treatment Court, the case will be assigned to a criminal division by the clerk in accordance with the applicable administrative order on assignment of cases and transferred to that

division. The case will be set for a disposition in the new division and copies of the transfer order will be provided to all parties.

F. Assistance by the Administrative Office of the Courts

To the extent resources are available, the Administrative Office of the Courts will facilitate the process by which a defendant is assessed; coordinate the procedure by which the written assessment is furnished to the State Attorney's Office, defense counsel, and judge; assist the court in managing its caseload; compile statistics; maintain the necessary documents to demonstrate compliance with any funding requirements, prepare the cases scheduled on the Veterans Treatment Court calendar; schedule initial appointments with treatment providers; and perform other case management functions for the court as required.

5. **Participation in the Pretrial Intervention Program Component of Veterans Treatment Court**

A. General Procedures

Veterans Treatment Court is intended to be a coordinated strategy of treatment specific to the needs of the veteran and modeled after principles of therapeutic jurisprudence. The coordinated strategy may include a protocol of sanctions that may be imposed for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a treatment program offered by a licensed service provider, placement in a jail-based treatment program, and serving a period of incarceration within the time limits established for contempt of court. The coordinated strategy must be provided in writing to the defendant before the defendant agrees to enter into the Pretrial Invention Program component.

The defendant is required to attend court hearings as set by the Veterans Treatment Court judge. The defendant must participate in continued assessment and treatment and engage in discharge planning. This participation must include the voluntary and truthful provision of information to the court and all collaborating entities in the assessment and treatment process. A defendant's failure to provide truthful necessary information may result in an unsuccessful discharge from Veterans Treatment Court.

If the court at any time determines that the defendant should be unsuccessfully discharged from Veterans Treatment Court, the case will be transferred back to the criminal division from which it originated. If the case was not assigned to a criminal division prior to being assigned or transferred to the Veterans Treatment Court, the case will be assigned to a criminal division by the

clerk in accordance with the applicable administrative order on assignment of cases and transferred to that division. The case will be set for a disposition in the new division and copies of the transfer order will be provided to all parties.

At the end of the pretrial intervention program period, the court will consider the recommendation of the treatment program and the parties as to the disposition of the pending charges. If the court determines that the defendant has successfully completed Veterans Treatment Court, the court may issue an Order of Administrative Dismissal of the pending charges.

B. New Arrests

i. Eligible Charge(s) or Violation(s)

If, while participating in the Pretrial Intervention Program component of Veterans Treatment Court, a defendant is arrested for a new charge eligible for admission to Veterans Treatment Court, the Veterans Treatment Court judge will determine whether or not the defendant remains amenable for treatment and should be allowed to continue to participate in the program. The judge will hear from the parties and consider the recommendation of the treatment program in determining whether the defendant will remain in the Pretrial Intervention Program. If so, and the defendant agrees, the new charge will be transferred to Veterans Treatment Court. If the Veterans Treatment Court judge determines that the defendant should not remain in Veterans Treatment Court, the defendant will be unsuccessfully discharged by the court entering an order transferring the case(s). The case will then be set for a disposition in the new division and copies of the transfer order will be provided to all parties.

ii. Ineligible Charge(s)

If, while participating in Veterans Treatment Court, a defendant is arrested for a new charge not eligible for Veterans Treatment Court, the defendant will be unsuccessfully discharged from the Veterans Treatment Court by the presiding judge entering an order transferring the case(s) in accordance with the transfer procedure in section 4E of this administrative order. The case will be set for a disposition in the new division and copies of the transfer order will be provided to all parties.

C. Expunction of Records

Any person whose charges are dismissed after successful completion of the Pretrial Intervention Program component of Veterans Treatment Court, if otherwise eligible, may have his or her arrest record of the dismissed charges expunged in accordance with section 943.0585, Florida Statutes. Petitions to

expunge for such defendants must be filed in Veterans Treatment Court and handled in accordance with Administrative Order S-2008-146 (*Expunction or Sealing of Criminal History Records*).

6. Post-Adjudicatory Program Component of Veterans Treatment Court

A. Eligibility

In order to participate in the Post-Adjudicatory Program component of Veterans Treatment Court in accordance with section 394.47891, Florida Statutes, a defendant must meet the following criteria:

- i. The defendant is a veteran as defined by section 1.01, Florida Statutes, or a servicemember as defined by section 250.01, Florida Statutes.
- ii. The defendant suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem.
- iii. The defendant is convicted of a criminal offense. For purposes of this section, the term “convicted” means a determination of guilt which is the result of a trial or the entry of a plea of guilty or nolo contendere, regardless of whether adjudication is withheld.

Admission into the Post-Adjudicatory Program component of Veterans Treatment Court must be in accordance with chapter 921, Florida Statutes, and based on the sentencing court’s assessment of the defendant’s criminal history, military service, substance abuse treatment needs, mental health treatment needs, amenability to the services of the program, the recommendation of the state attorney and the victim, if any, and the defendant’s agreement to enter the program.

B. Transfer of Case

i. Sentenced by Standard Criminal Division Judge

An eligible post-adjudicatory case pending in a standard criminal division may be transferred to Veterans Treatment Court via written order (1) after acceptance of an open plea of guilty or nolo contendere and imposition of sentence by another judge which includes successful completion of the Veterans Treatment Court Program; or (2) after a sentencing hearing following a guilty verdict, and imposition of sentence by another judge which includes successful completion of the Veterans Treatment Court Program. If a case is transferred to Veterans Treatment Court after imposition of sentence by a judge in another criminal

division, the case will proceed in the same manner as cases in the Pretrial Intervention Program component.

ii. Sentenced by Veterans Treatment Court Judge

A veteran or servicemember who suffers from a military service-related condition and whose criminal case is pending in a standard criminal division may request that the case be transferred to Veterans Treatment Court prior to entering an intended change of plea pursuant to plea negotiations with the State. If the standard criminal division judge determines the case appropriate for transfer, the judge will enter a written order transferring the case to Veterans Treatment Court so that the Veterans Treatment Court judge may accept the plea at the first hearing and impose sentence. Part of the sentence will include successful completion of the Veterans Treatment Court program. After imposition of sentence, the case will proceed in the same manner as cases in the Pretrial Intervention Program component.

C. Violation of Probation, Drug Offender Probation or Community Control

i. Technical Violations

If a defendant in the post-adjudicatory component of Veterans Treatment Court is accused of violating probation, drug offender probation or community control not involving a new criminal charge, the alleged violation will be handled by the Veterans Treatment Court judge.

ii. New Eligible Criminal Charge Violations

If a defendant in the post-adjudicatory component of Veterans Treatment Court is accused of violating probation, drug offender probation or community control involving a new criminal charge that is eligible for the Pretrial Intervention Program component of the Veterans Treatment Court, the new charge and alleged violation will be handled by the Veterans Treatment Court judge if the judge determines the new charge appropriate for transfer.

iii. New Ineligible Criminal Charge Violations

If a defendant in the post-adjudicatory component of Veterans Treatment Court is accused of violating probation, drug offender probation or community control involving a new criminal charge that is not eligible for the Pretrial Intervention Program component of Veterans Treatment Court, the new charge and alleged violation will be transferred back to the criminal division from which it originated. If the original case was not assigned to a criminal division prior to transfer to Veterans Treatment Court, the new charge and alleged violation will be

assigned to a criminal division by the clerk in accordance with the applicable administrative order on assignment of cases and transferred to that division. The case will be set for a disposition in the new division and copies of the transfer order will be provided to all parties.

D. Modifications of Probation, Drug Offender Probation or Community Control

Motions to modify or terminate probation, drug offender probation or community control will be heard in Veterans Treatment Court. If the case has been transferred from a Veterans Treatment Court division to another division, motions will be heard in the division assigned at the time the motion is filed.

7. Confidential Records

Prior to submitting to the mental health and substance abuse assessment, and any other assessments as deemed necessary by the court or any collaborating treatment entity, the defendant must consent to a waiver of confidentiality of the defendant's confidential treatment records, allowing communications between the various providers, the Veterans Administration, and the court for verification of the defendant's eligibility for Veterans Treatment Court and the continued monitoring of the defendant's progress in the program. If the defendant refuses to agree to waiver of confidentiality for the purposes of verification and monitoring in Veterans Treatment Court, the defendant will not be eligible for, or allowed to continue in, Veterans Treatment Court. No other use or disclosure of confidential records is authorized.

Patient treatment records are deemed confidential as provided by Florida law and generally must not be filed in the court file. If it is necessary that a treatment record or report or any portion of a treatment record or report be filed with the clerk for placement in the court file of a defendant in Veterans Treatment Court, the filer must also file a "Motion to Determine Confidentiality of Court Records" in accordance with Florida Rule of Judicial Administration 2.420. The court will enter any appropriate order in accordance with Rule 2.420.

8. Veterans Treatment Court Oversight Committee

The Veterans Treatment Court Oversight Committee is hereby established to oversee Veterans Treatment Court operations in order to ensure proper training of court personnel and correct implementation of the Veterans Treatment Court model. The committee is charged with recommending strategies to maintain the quality and effectiveness of Veterans Treatment Court and to ensure that the many treatment options now available for Veterans Treatment Court remain viable.

The Veterans Treatment Court Oversight Committee is comprised of the Public Defender or designee, the State Attorney or designee, the Trial Court Administrator or designee, a representative of the Veterans Administration, the Hillsborough County Sheriff or designee, the chair of the Hillsborough County Bar Association's Military and Veterans Affairs Committee or designee, a representative of any other service provider identified by the State Attorney's Office or the Public Defender's Office, the presiding judge in Veterans Treatment Court, the administrative judge of the Veterans Treatment Court, the administrative judge of the Criminal Justice Division, and the chief judge or designee.

The Veterans Treatment Court Oversight Committee will meet at least twice per year.

9. Previous Administrative Order Superseded

This administrative order supersedes Administrative Order S-2014-065 (*Veterans Treatment Court*).

10. Effective Date

This administrative order is effective February 1, 2015.

It is ORDERED nunc pro tunc February 1, 2015, in Tampa, Hillsborough County, Florida on this 5th day of February, 2015.


Ronald N. Ficarrotta, Chief Judge

Original to: Pat Frank, Clerk of the Court

Copy to: All Criminal Division Judges
Mark Ober, State Attorney
Julianne Holt, Public Defender
Veterans Administration
David Gee, Hillsborough County Sheriff
Hillsborough County Bar Association
Hillsborough County Bar Association's Military and Veterans Affairs Committee