

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

**ADMINISTRATIVE ORDER S-2020-009
(Supersedes Administrative Order S-2017-037)**

DRUG COURT DIVISION

Section 397.334, Florida Statutes, codifies the Florida Legislature's intent to implement treatment-based drug court programs in each judicial circuit. In 1992, the Thirteenth Judicial Circuit first established the Drug Court Division to serve as a specialized subdivision of the Circuit Criminal Division. It is necessary for the proper and efficient operation of the Thirteenth Judicial Circuit to update the administrative provisions in the Drug Court Division.

By the power vested in the chief judge under article V, section 2(d), Florida Constitution; section 43.26, Florida Statutes; and Florida Rules of Judicial Administration 2.215(b)(2) and 2.215(e)(3), it is ORDERED as follows:

1. Purpose

The purpose of the Drug Court Division is to provide a non-adversarial forum whereby an individual who meets the eligibility criteria and voluntarily chooses to avail himself or herself of the benefits of drug treatment may do so by pleading guilty or entering a pre-trial drug diversion program.

2. Definitions

For purposes of this administrative order, the following terms have the following meanings:

A. *Drug court model* means a case management system for defendants with substance abuse issues, as set forth in section 397.334(4), Florida Statutes, in which court-supervised drug treatment is used rather than litigation (*i.e.*, no trials or pre-trial motions). The drug court model is a phased system of treatment that includes varying levels of substance abuse treatment, court incentives and sanctions, and frequent court case reviews, as set forth in the Florida Adult Drug Court Best Practice Standards. Depending on a participant's needs and available resources, a participant also may receive mental health counseling, trauma-informed services, criminal thinking interventions, and other treatment and social services necessary to successfully graduate from the drug court program.

B. *Drug treatment* means a continuum of care and includes, without limitation, detoxification, outpatient, intensive outpatient, residential, partial-hospitalization, aftercare, and in-jail treatment programs.

C. *Drug court team* means a multi-disciplinary team of professionals that manages the day-to-day operations of the Drug Court Division, including reviewing participant progress during pre-court staff meetings and status hearings, contributing observations and recommendations within team members' respective areas of expertise, and delivering or overseeing the delivery of legal, treatment, and supervision services. The drug court team includes, without limitation, a judge, a Problem-Solving Courts program coordinator, prosecutors, defense counsel, treatment representatives, additional service providers, community supervision officers, and law enforcement officers.

D. *Enrollment docket* means the defendant's initial appearance into the Drug Court Division. This docket will occur on one or more specific days of the week as determined by the presiding judge in Drug Court Division "Y." Any cases transferred from a standard criminal division or Division "K" to the Drug Court Division will be placed first on the Drug Court Division "Y" enrollment docket.

E. *Felony* has the same meaning as "felony" provided in section 775.08(1), Florida Statutes.

F. *Guilty plea* means a plea of guilty to a criminal charge under Florida Rules of Criminal Procedure 3.170(a) and 3.172(d), in which the defendant either acknowledges his or her guilt or acknowledges that he or she feels the plea to be in his or her best interest.

G. *Non-violent felony* means a third degree felony violation of chapter 810, Florida Statutes, or any other felony offense that is not a forcible felony as defined in section 776.08, Florida Statutes.

H. *Standard criminal division* means any of the following divisions of the Circuit Criminal Division: "A," "B," "C," "D," "E," "F," "G," and "I."

I. *Violent felony* means any forcible felony as defined by section 776.08, Florida Statutes, except a third degree felony violation of chapter 810, Florida Statutes.

J. *VOP* means a violation of probation, violation of drug offender probation, violation of community control, or violation of community control II.

3. Drug Court Division “W” – Pre-Trial Intervention Program

A. Drug Court Division “W” Eligibility

Drug Court Division “W” serves as the pre-trial diversion and intervention program division. To be eligible for voluntary admission into Drug Court Division “W,” a defendant must meet the following criteria: (a) the defendant must be charged with a non-violent felony; (b) the defendant has been identified as having a substance abuse problem and amenable to drug treatment; and (c) the defendant has not previously been convicted of more than two non-violent felony offenses.

B. Coordinated Treatment Strategy

Defendants are subject to a coordinated treatment strategy developed by the drug court team. Defendants will be required to enter into a pre-trial intervention contract outlining the requirements to participate in the diversion and intervention program. Defendants are not required to enter a plea of guilty or *nolo contendere* to the charges that caused them to be assigned to this drug court division. Successful completion of the drug treatment program will result in dismissal of the charge(s) against the defendant. *See* § 948.08, Fla. Stat.

4. Drug Court Division “Y” – Post-Adjudicatory Drug Court Program

Drug Court Division “Y” serves as the post-adjudicatory treatment-based drug court division handling eligible drug offenses. These drug offenses will be strictly managed by the presiding judge of Drug Court Division “Y” according to the drug court model. Drug Court Division “Y” will handle all eligible cases through final disposition, including VOPs.

A. Drug Court Division “Y” Eligibility

To be eligible for transfer to Drug Court Division “Y,” a defendant must meet the following criteria: (a) the defendant has a substance abuse problem; (b) the defendant’s Criminal Punishment Code scoresheet total sentence points are 60 points or less; (c) the defendant’s current offense is a non-violent felony; (d) the defendant wants to participate in the drug court model; and (e) the defendant does not want in any way to contest the criminal charge(s).

B. Transfer of Eligible Cases to Drug Court Division “Y”

If a defendant is eligible for admission into Drug Court Division “Y” and wants to enter the program, the assigned standard criminal division judge will enter an order transferring the case to Drug Court Division “Y.” The presiding judge of Drug Court Division “Y” will make the final eligibility determination after consultation with the drug court team based on criteria specified in section 4B of this administrative order below. If the presiding judge of Drug Court Division “Y”

determines that the defendant is not eligible for the drug court division, the presiding judge will enter an order transferring the case back to the standard criminal division.

C. Risk-Assessment Tool

Each defendant who is transferred to Drug Court Division “Y” will be assessed by a drug court specialist or treatment provider approved by the court prior to sentencing using a validated risk-assessment tool that identifies criminogenic needs and estimates a risk level.

D. Clinical Assessment Tool

Each defendant who is transferred to Drug Court Division “Y” will be assessed by a treatment provider approved by the court prior to sentencing using an evidenced-based assessment tool that provides clinicians a way to standardize treatment planning, determine where patients are placed in treatments, as well as how to provide continuing integrative care and ongoing service planning.

E. Guilty Plea and Probationary Sentence

Each defendant who is transferred to Drug Court Division “Y” will enter a guilty plea in Division “Y” and be sentenced by the presiding judge of Drug Court Division “Y” to a probationary term consistent with the results of the defendant’s assessments and provider recommendations for drug treatment.

F. Contract

Defendants will sign a contract in which they agree to all terms of their drug treatment in Drug Court Division “Y.”

G. Transfer to Drug Court Division “W”

After a case is transferred to Drug Court Division “Y,” upon motion of either party or the court’s own motion, if a defendant is eligible for the drug court pre-trial intervention program and wants to participate in that program, the defendant’s case(s) will be transferred from Drug Court Division “Y” to Drug Court Division “W.”

5. Sentencing in Drug Court Division “Y”

Except as provided in section 6 of this administrative order, any defendant sentenced in Drug Court Division “Y” will remain in Drug Court Division “Y” until final disposition of the case.

6. VOP in Drug Court Division “Y”

A. Technical VOP

If a VOP arises as a result of any violation that does not involve a new criminal charge, the presiding judge of Drug Court Division “Y” will handle the VOP in accordance with the drug court model to final disposition.

B. New Non-violent Felony Charges

If a VOP arises as a result of a new non-violent felony charge, the presiding judge of Drug Court Division “Y” will handle the VOP in accordance with the drug court model, unless the defendant wants to contest the new substantive charge. If the defendant decides to contest only the new substantive charge, then the presiding judge of Drug Court Division “Y” will direct the clerk to transfer the new substantive charge and the corresponding VOP to a standard criminal division for disposition. Otherwise, all VOPs will remain in Drug Court Division “Y.”

C. New Violent Felony Charges

If a VOP arises as a result of a new violent felony charge and the defendant’s scoresheet points total 60 points or less, the presiding judge of Drug Court Division “Y” will handle the new VOP in accordance with the drug court model unless the defendant wants to contest the new substantive charge. If the defendant decides to contest only the new substantive charge, then the presiding judge of Drug Court Division “Y” will direct the clerk to transfer the new substantive charge and the corresponding VOP to a standard criminal division for disposition. Otherwise, all VOPs will remain in Drug Court Division “Y.”

7. Hearing for Entry or Denial into Drug Court Division “Y”

If there is an issue or question as to the defendant’s eligibility for Drug Court Division “Y” in accordance with the law (i.e. substance abuse problem), or if the state does not recommend a defendant for admission to Drug Court Division “Y” under section 397.334(3), Florida Statutes, the presiding judge of Drug Court Division “Y” may hold a hearing to determine if the defendant will be allowed to enter or remain in Drug Court Division “Y.”

8. Transfer of Case from a Standard Criminal Division to Drug Court Division “Y” under Section 948.20, Florida Statutes

If at any time the presiding judge of a standard criminal division determines that (a) the defendant has a substance abuse problem; (b) the defendant’s Criminal Punishment Code scoresheet total sentence points are 60 points or less, including violation points; (c) the current offense is a non-violent felony; (d) the defendant wants to participate in the drug court model; and (e) the defendant does not want in any way to contest the criminal charges, the judge of that division may transfer the

case to Drug Court Division “Y,” subject to the limitation in section 9 of this administrative order. If a judge decides to transfer such a case in which a defendant has not entered a plea or has not been adjudicated for the pending criminal charge, the presiding judge of that division will direct the clerk to transfer the case to Drug Court Division “Y” for acceptance of a guilty plea and sentencing. The clerk will place the case on the next available Drug Court Division “Y” enrollment docket.

9. Transfer of Eligible VOP Cases to Drug Court Division “Y”

For any VOP case pending in Circuit Criminal Division “K” in which the underlying offense was committed on or after July 1, 2009, the presiding judge of that division may transfer the VOP to Drug Court Division “Y,” subject to the limitation in section 9 of this administrative order, if (a) a defendant’s underlying offense is a non-violent felony; (b) the defendant scores 60 points or less on the Criminal Punishment Code scoresheet, including violation points; and (c) the presiding judge of Division “K” determines that the defendant is amenable to the services of a post-adjudicatory treatment-based drug court. If the Division “K” judge decides to transfer such a case to Drug Court Division “Y,” the case will be transferred to Drug Court Division “Y” for acceptance of an admission and sentencing or modification. The clerk will place the case on the next available Drug Court Division “Y” enrollment docket.

10. Transfer of Certain Probation-Sentenced Cases to Drug Court Division “Y”

If the presiding judge of another division determines that (a) a defendant who has been sentenced to probation for a non-violent felony is particularly amenable to the services of a post-adjudicatory treatment-based drug court; (b) the defendant scores 60 points or less on the Criminal Punishment Code scoresheet, including violation points; and (c) the presiding judge of Drug Court Division “Y” consents to the transfer of the case, the presiding judge of the other division may transfer the supervision of probation to Drug Court Division “Y.” The clerk will place the case on the next available Drug Court Division “Y” enrollment docket.

11. Transfer of Case from Drug Court Division “Y” Back to a Standard Criminal Division

A. Limitation on Transfer

If a case is transferred from Drug Court Division “Y” back to a standard criminal division for any reason, such case will not be transferred again to Drug Court Division “Y” without the prior consent of the presiding judge of Drug Court Division “Y.”

B. Reassignment of Case

All cases transferred from Drug Court Division “Y” will be reassigned back to the standard criminal division from which the case was originally transferred to Drug Court Division “Y.” The clerk will place the case on the next available standard criminal division docket.

C. Notice of Reassigned Division

For any case transferred from Drug Court Division “Y,” the clerk will provide notification in open court of the standard criminal division to which the case is reassigned.

12. Reassignment Upon Judge’s Disqualification or Recusal

If the presiding judge in Drug Court Division “W” enters an order of disqualification or recusal, the clerk will reassign the case to Drug Court Division “Y.” If the presiding judge in Drug Court Division “Y” enters an order of disqualification or recusal, the clerk will reassign the case to Drug Court Division “W.”

13. Problem-Solving Courts Oversight Committee

The Problem-Solving Courts Oversight Committee, as established by Administrative Order S-2018-063, will continue to oversee drug court operations, to recommend strategies to maintain the quality and effectiveness of drug court operations, and to ensure access to appropriate resources through the collaborative services of the courts, drug treatment, and the community.

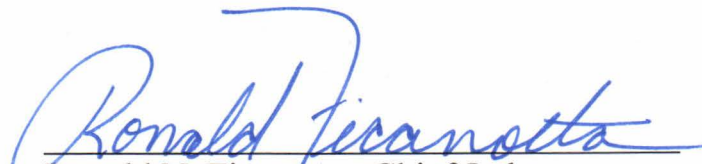
14. Previous Administrative Order Superseded

This administrative order supersedes Administrative Order S-2017-037 (*Drug Court*).

15. Effective Date

This administrative order is effective March 1, 2020.

ENTERED in Tampa, Hillsborough County, Florida on January 31, 2020.


Ronald N. Ficarrotta, Chief Judge

Original to: Pat Frank, Clerk of the Circuit Court
Copy to: All Circuit Criminal Division Judges
Gina Justice, Court Administrator
Julianne Holt, Public Defender
Andrew H. Warren, State Attorney
Patrick Barrentine, Department of Corrections