

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

**ADMINISTRATIVE ORDER S-2023-046
(Supersedes Administrative Order S-2021-019)**

MENTAL HEALTH CRIMINAL DIVISION "M"

In 2016, the Thirteenth Judicial Circuit first established the Mental Health Division to serve as a specialized subdivision of the Circuit Criminal Division. It is necessary for the proper and efficient administration of justice to revise the provisions dealing with the transfer of cases of defendants found incompetent to proceed.

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

1. Mental Health Division "M"

Mental Health Criminal Division "M" will monitor (a) defendants who are identified as eligible for voluntary admission into a mental health pre-trial intervention program; (b) defendants who are identified as eligible for a post-adjudicatory mental health program; (c) eligible defendants adjudged incompetent to proceed; and (d) all defendants adjudged not guilty by reason of insanity.

2. Mental Health Pre-Trial Intervention Programs

A. Placement into Program

A defendant who is deemed appropriate by the Thirteenth Judicial Circuit Court Mental Health Liaison for a specialized diversion program may be placed in a voluntary Mental Health Pre-Trial Intervention Program in accordance with an agreement between the defendant and the State Attorney's Office.

B. Transfer of Cases

Prior to entering into a Mental Health Pre-trial Intervention Program, if the defendant was not previously transferred to Mental Health Criminal Division "M," defense counsel will prepare and

submit a transfer order to the presiding judge. The Clerk of the Circuit Court (clerk) will transfer the case to Division “M” upon receipt of the transfer order. All case-related matters will be addressed in Division “M” until the case is resolved or until the Court determines the case should be transferred back for disposition by the court to the standard division from which the case was originally transferred. This transfer will be accomplished without the need for a written court order.

3. Mental Health Post-Adjudicatory Programs

A. Acceptance into Program

A defendant who is deemed appropriate by the Thirteenth Judicial Circuit Court Mental Health Liaison for a Mental Health Post-Adjudicatory Program, and voluntarily agrees to the proposed conditions, may be accepted upon an offer from the State Attorney’s Office. If the defendant is currently monitored in Mental Health Criminal Division “M,” the defendant will enter a guilty plea in Division “M” and be sentenced by the presiding judge of Division “M.”

B. Transfer of Cases

A defendant in a standard circuit criminal division who is deemed appropriate for a Mental Health Post-Adjudicatory Program will enter a guilty plea in the standard division and will be sentenced by the presiding judge of that division. At the time of sentencing, defense counsel will prepare and submit a transfer order for all eligible defendants. The clerk will transfer eligible defendants to Division “M” upon receipt of the transfer order. A defendant in Division “K” who is deemed appropriate for a Mental Health Post-Adjudicatory Program will be sentenced by the presiding judge of Division “K.” At the time of sentencing, defense counsel will prepare and submit a transfer order for all eligible defendants. The clerk will transfer eligible defendants to Division “M” upon receipt of the transfer order.

C. Violation of Probation Matters

i. Technical Violations

All violation of probation matters from the Mental Health Post-Adjudicatory Program not involving a new criminal charge will be scheduled and disposed of in Mental Health Criminal Division "M."

ii. New Misdemeanor Charge Violation

All violation of probation matters from the Mental Health Post-Adjudicatory Program as a result of a new misdemeanor charge, including the new misdemeanor charge, will be scheduled and disposed of in Mental Health Criminal Division "M."

iii. Proposed Warrant

All proposed warrants for any technical violation of probation from the Mental Health Post-Adjudicatory Program and for any alleged violation involving a new misdemeanor charge, must be presented to the presiding judge of Mental Health Criminal Division "M" for review and action.

iv. New Felony Charge Violation

Any violation of probation matter from the Mental Health Post-Adjudicatory Program as a result of a new felony charge will be filed and disposed of in the standard division in which the case was last pending. Any violation of probation matter from the Mental Health Post-Adjudicatory Program as a result of a new felony charge and an alleged violation will be filed and disposed of in the standard division in which the case was last pending.

4. Defendants Found Incompetent to Proceed

A. Transfer of Cases

A presiding judge of a standard division will transfer to Mental Health Criminal Division "M" any defendant charged with a second degree felony or a third degree felony who is found to be incompetent to proceed. The presiding judge of Division "K" will transfer to Division "M" any defendant found incompetent to proceed on a violation of probation in which the underlying offense

was a second degree felony or a third degree felony. Following a competency hearing as required by Florida law, the court must enter an order containing findings, including the reason for incompetence and the terms of conditional release or commitment to the Department of Children and Families. A written order finding the defendant incompetent to proceed must be issued prior to a case being transferred to Division "M." Any subsequent hearings contesting a commitment order must be heard in the standard division. Defense counsel must prepare and submit a transfer order for all eligible defendants. All defendants adjudged incompetent to proceed will be transferred to the designated Monday incompetent to proceed docket in Division "M." The clerk will transfer eligible defendants to Division "M" upon receipt of the transfer order. If the defendant has more than one case pending, and any of the charges are not eligible to be transferred to Division "M," all cases will remain in the standard division.

B. Restoration of Competency

If a defendant is restored to competence, the defendant may be offered entrance into a Mental Health Pre-Trial Intervention Program or a Mental Health Post-Adjudicatory Program and remain in Division "M" for further monitoring. Cases may also be disposed of in Division "M" by an alternative plea agreement or other resolution at the discretion of the State Attorney's Office and upon approval of the presiding judge. If a defendant is not eligible for a resolution in Division "M" or if the defendant wants to contest the charge, the defendant must be transferred back for disposition by the court to the standard division from which the case was originally transferred to Division "M." This transfer will be accomplished without the need for a written court order.

5. Defendants Adjudged Not Guilty by Reason of Insanity

All defendants adjudged not guilty by reason of insanity will be transferred to Division "M." Defense counsel must prepare and submit an order of transfer. Defendants will remain in Division "M" for monitoring until jurisdiction is terminated.

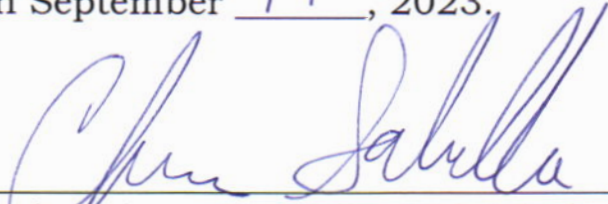
6. Previous Administrative Order Superseded

This administrative order supersedes Administrative Order S-2021-019 (*Mental Health Criminal Division "M"*).

7. Effective Date

This administrative order is effective October 1, 2023.

ENTERED on September 19, 2023.



Christopher C. Sabella, Chief Judge

Original: Cindy Stuart, Clerk of the Circuit Court

Copy: All Criminal Division Judges
Susan "Suzy" Lopez, State Attorney
Julianne Holt, Public Defender
Brandi Williams, Chief Deputy of Court Operations,
Clerk's Office
Hillsborough County Bar Association