

IN THE EIGHTH JUDICIAL CIRCUIT OF FLORIDA
ADMINISTRATIVE ORDER NO. 4.05

**ALACHUA COUNTY PRE-FIRST APPEARANCE RELEASE PROCEDURE
FOR ORDINANCE VIOLATIONS AND MISDEMEANOR CASES**

WHEREAS, persons arrested and detained for law violations have the right to be brought before a judicial officer for a first appearance hearing within twenty-four (24) hours of arrest for the purpose of determining appropriate conditions for pretrial release, if they are entitled to such release, including the requirement in some cases that the person post a bail bond; and

WHEREAS, Florida law requires that certain persons who have been arrested must be detained without bail, pending determination by a court of competent jurisdiction as to whether that person poses a “danger to the public” or not. *See, e.g.*, § 903.0351 Fla. Stat.; § 948.06(4), Fla. Stat.; § 948.06(8), Fla. Stat.; and

WHEREAS, persons arrested and detained for certain minor offenses, because of the nature of the alleged offense, do not pose a danger to the public and are likely to appear in court as required, thus making it unnecessary to detain such persons in the jail pending a first appearance hearing; and

WHEREAS, the administration of the Alachua County Sheriff’s Office, Department of the Jail, the Circuit and County Criminal Courts, and the interests of justice all will be well-served by the establishment of a procedure for the release of certain eligible persons detained at the jail for minor offenses awaiting first appearance; and

WHEREAS, the provisions of this order have been reviewed and agreed upon by the State Attorney and Public Defender of the Eighth Judicial Circuit and by the Alachua County Sheriff,

It is therefore **ORDERED**:

1. This administrative order establishes procedures pertaining to certain persons who have been arrested in Alachua County for certain minor offenses which will permit release from custody on their own recognizance without being detained on that offense pending a first appearance hearing.

2. A person arrested and detained for any municipal or county ordinance violation, or any misdemeanor offense, **except as stated below in paragraph 3**, shall be released on their own recognizance from the Alachua County Department of the Jail on that offense immediately following appropriate verification of eligibility and upon the certification of the conditions specified below in paragraph 5.

3. Persons arrested and detained for municipal or county ordinance violations or misdemeanor offenses shall not be eligible for recognizance release pursuant to paragraph 2 and shall be held and brought before the presiding judge at the next first appearance hearing when:

- A. That person is arrested for:
 - i. Any firearm or weapons offense under Chapter 790, Florida Statutes;
 - ii. Driving under the influence, under section 316.193, Florida Statutes;
 - iii. Battery, under section 784.03, Florida Statutes;
 - iv. Unnatural and lascivious act, under section 800.02, or Exposure of sexual organs, under section 800.03, Florida Statutes;
 - v. Stalking, under section 784.048, Florida Statutes;
 - vi. Trespass, under sections 810.08, 810.09, and 810.097, Florida Statutes;
 - vii. Prostitution, under section 796.07, Florida Statutes;
 - viii. Violation of an injunction, under sections 741.31, 784.046, 784.047, 784.0485, 784.049, and 790.233, Florida Statutes;
 - ix. Any crime involving domestic violence as defined by section 741.28, Florida Statutes;
 - x. Any violation of a rule adopted pursuant to section 381.00315, Florida Statutes, any isolation or quarantine, or any requirement adopted by the Department of Health pursuant to a declared public health emergency;

- xi. On-view violation of pre-trial release;
- xii. Violation of supervised county probation*; or

- B. That person has a prior local, state, or out-of-state criminal history (including any juvenile history) which contains any felony arrest within five (5) years; or
- C. That person has been arrested on a capias or warrant which sets a bond, unless such bond has been posted; or
- D. That person is currently on bond or personal recognizance release for any offense; or
- E. That person is currently on active supervised felony or misdemeanor probation or supervised community control.

4. A person who has been arrested on a warrant or capias endorsed with a bond or recognizance release conditions, and has additionally been arrested on a separate municipal or county ordinance violation or misdemeanor, who has posted said bond (if any) and has acknowledged said recognizance conditions and is otherwise eligible for release on the warrant or capias, shall be released from detention prior to a first appearance hearing if the additional ordinance or misdemeanor violation otherwise qualifies for release pursuant to this administrative order.

5. By releasing a person pursuant to this administrative order, the Alachua County Sheriff's Office, Department of the Jail, through its authorized representative, is certifying the following:

- A. That the release of the person satisfies all the requirements of this administrative order; and

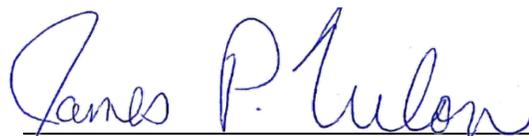
* A person on *unsupervised* county probation who is arrested on a warrant or capias for a technical or compliance violation (e.g., failure to pay court costs, perform community service hours, etc.) is entitled to post the bond endorsed on the warrant or capias and obtain release on that charge.

- B. That the person who is released has acknowledged in writing that his or her release is subject to the following special conditions:
- i. He or she will have no contact with the alleged victim, if any, and that the person has received and will comply with the Standing No Contact Order (AO 4.17);
 - ii. He or she will not possess weapons or firearms of any kind (if released on a weapons or firearms charge);
 - iii. He or she will refrain from any future criminal activity of any kind;
 - iv. He or she will appear for court upon notification at the address that he or she has provided to the Department of the Jail staff prior to release; and,
 - v. That a violation of any of these conditions of release could result in revocation of the pre-trial release conditions and re-arrest of the person who has been released.
- C. The certifications outlined above by the authorized representative of the Alachua County Sheriff's Office, Department of the Jail, will be made a part of the case file of any detainee released pursuant to this administrative order.

This order replaces and supersedes prior Administrative Order No. 4.05(v2) entered on April 13, 2018.

The effective date of this Order is March 27, 2020.

ORDERED ON this 30th day of March 2020 at Gainesville, Alachua County, Florida *nunc pro tunc* March 27, 2020.



James P. Nilon, Chief Judge