

THE EIGHTH JUDICIAL CIRCUIT OF FLORIDA
ADMINISTRATIVE ORDER NO. 4.10

ALACHUA COUNTY DRUG COURT

In order to provide for the requirements of Adult Drug Court within the Eighth Judicial Circuit of Florida; and

WHEREAS, section 397.334(1), Florida Statutes, authorizes a voluntary, treatment-based drug court program to expeditiously and efficiently divert justice-involved individuals with substance abuse problems, and to allow them to receive appropriate treatment without compromising the safety of the public; and

WHEREAS, Drug Court includes two distinct tracks: Alachua County Felony Pre-Trial Diversion Drug Court and Alachua County Post-Plea Drug Court;

IT IS ORDERED:

I. TREATMENT TEAM MEMBERS

All treatment team members shall be present at each court event. In addition to the attorneys assigned to Drug Court by the State Attorney and Public Defender, the Treatment Team shall include the following:

- a. **Alachua County Specialty Courts Manager (Court), Chair of the Treatment Team** Shall be responsible for assisting the Court and team members during treatment team meetings and staffing and gathering data and statistics as necessary and appropriate.
- b. **Treatment Court Supervisor and or Designee (Alachua County Court Services/ W.O. Beauchamp Drug Court Services)** - Shall screen all justice-involved individuals in Alachua County that have been referred to Drug Court to determine eligibility, and forward names of individuals who meet Drug Court criteria to the State Attorney for program approval.
- c. **Drug Court Officer (Alachua County Court Services)** - Shall prepare the Drug Court docket and supervise, monitor and provide court updates on each participant's compliance with court-imposed conditions.

- d. **The provider agency** - Shall work in tandem with the Drug Court Team to provide the treatment required by each participant and be a member of the Drug Court Team, allowing for information regarding the defendant to be forwarded to the Drug Court Judge.

II. ELIGIBILITY

- a. Defendants with drug-related charges, including charges that result from or are caused by drug usage, will be screened for program eligibility by the Drug Court staff. DUI cases are not eligible for the Drug Court Program. Eligibility criteria for participation in Drug Court are:
 - i. The charge is a non-violent felony offense.
 - ii. The defendant is not currently on state probation or Violation of Probation status for any felony offense.
 - iii. Restitution issues related to property offenses are addressed.
 - iv. State Attorney's Office approves case for participation.
- b. Referrals to Drug Court may be made by: the Court, the State Attorney, defense counsel, Court Services, law enforcement, treatment providers, and family members. The referring party must contact the Drug Court staff to begin the screening process. The Drug Court staff will notify treatment team members of all referrals. Individuals referred from first appearance shall remain in pre-trial release status pending acceptance into Drug Court.
- c. After initial eligibility is determined by Court Services, the State Attorney's Office will consider the referral for participation and formal acceptance into the program. Misdemeanor offense(s) charged within the same information as the referred felony charge shall also be referred to the Drug Court Program, excluding DUI charges.
- d. Any misdemeanor or criminal traffic charges unrelated to the Drug Court charges shall be disposed of in their original division. However, if probation is part of the judgment and sentence, the case shall be supervised by the Drug Court Program. If a defendant does not successfully complete the Drug Court Program, the misdemeanor and criminal traffic cases shall be returned to the Department of Court Services/Probation Supervision.
- e. Upon request from the Court or Drug Court staff, the case will be removed from the felony court docket and placed on the next scheduled Drug Court docket. The docketing of a case referred to Drug Court does not act as a formal transfer or acceptance into the Drug Court Program.

- f. The following are required before a case can be transferred to Drug Court:
 - i. The State has filed an Information.
 - ii. Drug Court screening and eligibility have been determined.
 - iii. The defendant has voluntarily agreed to enter Drug Court by reviewing and signing the Drug Court Covenant and Agreement (also known as the Drug Court contract).
 - iv. The defendant has waived the right to a speedy trial.
 - v. The defendant has reviewed and consented to the Drug Court protocol of sanctions.

III. ALACHUA COUNTY PRE-TRIAL DIVERSION DRUG COURT

- a. Upon transfer to Pre-Trial Diversion Drug Court, the defendant shall be required to attend court hearings weekly or as set by the Drug Court Judge. The defendant must participate in continued assessment and treatment as determined by the Court and Treatment Team. The participant must provide voluntary and truthful information to the Drug Court Treatment Team and to all collaborating entities providing treatment of any type.
- b. The Drug Court program consists of three phases, with minimum periods of sobriety set before advancing to the next phase. Activities in each phase include compliance with an individualized treatment plan, submitting random urinalysis, and attending case management, group sessions and court appearances. As the participant progresses, and at the discretion of the Drug Court Team, the frequency of the required court appearances may be reduced.
- c. The Drug Court Judge will monitor the case while the defendant is enrolled in the Pre-Trial Diversion Drug Court program. Throughout a defendant's participation in Drug Court, the Drug Court Judge shall consider the recommendations of the treatment team, the State Attorney, and attorney for the defendant. If the defendant fails to comply with Drug Court requirements, the Drug Court Judge may order the defendant to continue in education and treatment, may impose sanctions pursuant to the Drug Court protocol, or may sign an order terminating the defendant's participation in Drug Court.

- d. If the defendant successfully completes the Pre-Trial Diversion Drug Court program, the State Attorney's Office will file a Drug Court Notice of Program Completion dismissing the case(s). If the Court finds that the defendant has not successfully completed the Drug Court program, the Court may order the person to continue in education and treatment or order that the charges revert to normal channels of prosecution. See § 948.08(7)(c), Fla. Stat.
- e. If a defendant does not successfully complete the Drug Court program, the State Attorney's Office will file a notice of reinstatement of prosecution and the case will be returned to the original assigned division. If discharged from the Drug Court Program, the Drug Court Judge shall evaluate and establish bond amounts and/or release status.

IV. ALACHUA COUNTY POST-PLEA DRUG COURT

- a. Felony drug offenders with substance abuse problems, who are not eligible for the Pre-Trial Diversion Drug Court Program due to their criminal history or charges, may be referred and screened for the Post-Plea Drug Court Program.
- b. All referrals must be sent directly to the Department of Court Services Treatment Court Supervisor and the Drug Court Officer. The Drug Court staff will notify the State Attorney, Defense Attorney, and the Specialty Court Manager of all referrals.
- c. If it is determined that a defendant is eligible for the Post-Plea Drug Court Program, the defendant must enter a plea agreement which provides for the unconditional resolution of the defendant's felony cases in the event the defendant (a) successfully completes the Post-Plea Drug Court program or (b) unsuccessfully completes the Post-Plea Drug Court program.
- d. The plea petition must provide that any motion to withdraw plea filed after acceptance into the Post-Plea Drug Court Program will be governed by Florida Rule of Criminal Procedure 3.170(l) and Florida Rule of Appellate Procedure 9.140(b)(2)(A)(ii)(a)-(e). The plea agreement must include a signed copy of the Drug Court Covenant and Agreement under Post-Plea Program and Drug Court's protocol of sanctions
- e. Prior to presentation of the negotiated plea agreement to the Court, the parties must notice the Department of Court Services Treatment Court Supervisor, the Drug Court Officer, and the Specialty Court Manager of the hearing date and time. The notice must be provided no later than seven (7) days prior to the scheduled plea date. A copy of the proposed plea agreement must be provided prior to program approval or acceptance.

- f. If a defendant is on probation prior to consideration for Post-Plea Drug Court, any pending probationary supervision on other case(s) must be either tolled or terminated.
- g. Upon acceptance of the plea and negotiated disposition, the sentencing court will sign an order transferring the case to Drug Court under the Post-Plea Program. The Clerk of Court will place the case on the next available Drug Court docket.
- h. After entering the plea, the defendant will be required to report to Drug Court at the time and place noticed by the Court or Drug Court staff, attend court hearings, and participate in continued assessment and treatment as set by the Court and Treatment Team. The participant must provide voluntary and truthful information to the Court, Drug Court Treatment Team, and to all collaborating entities providing treatment of any type. Failure to comply with the Post-Plea Drug Court requirements may subject the defendant to sanctions or removal from the program, as determined by the plea agreement.
- i. Upon successful completion of the program, the defendant's case will be returned to the assigned division judge's case management docket for disposition, pursuant to the plea agreement.
- j. Upon removal from the Post-Plea Drug Court Program, the defendant's case will be returned to the assigned division judge's case management docket for disposition, pursuant to the plea agreement.

V. TRANSFERS

- a. A defendant charged outside of Alachua County may have their case transferred to the Alachua County Post-Plea Drug Court Program from another county or circuit, pursuant to section 910.035, Florida Statutes, upon agreement of the parties and acceptance by the Drug Court Judge. Pre-trial transfers will not be accepted.
- b. The authorized representative of the transferring county's trial court will consult with the Department of Court Services Treatment Court Supervisor, Drug Court Officer, and the Specialty Court Manager for an initial eligibility determination. The Drug Court staff will notify the State Attorney's Office of the transfer request.
- c. After an initial eligibility determination has been made, but prior to acceptance into the Program, the referring county must provide a copy of the proposed plea agreement. The plea agreement must:
 - i. provide for the unconditional resolution of the defendant's felony case in the event that the defendant either (a) successfully completes the Post-

Plea Drug Court Program or (b) unsuccessfully completes the Post-Plea Drug Court Program.

- ii. provide that any motion to withdraw plea after acceptance into Post-Plea Drug Court Program will be governed by Florida Rule of Criminal Procedure 3.170(l) and Florida Rule of Appellate Procedure 9.140(b)(2)(A)(ii)(a)-(e).
- d. If a defendant is on probation prior to consideration for Post-Plea Drug Court, any pending probationary supervision on other case(s) must be either tolled or terminated.
- e. The order transferring an out of county post-plea case to Alachua County must include:
 - i. A copy of the charging documents in the case;
 - ii. The final disposition;
 - iii. All reports and test results;
 - iv. Any other documents in the case;
 - v. The defendant's mailing address and telephone number;
 - vi. The defendant's written consent to abide by the rules and procedures of the Drug Court Program (also known as Drug Court Covenant and Agreement Under Post-Plea) and Drug Court protocol of sanctions.
- f. Upon receipt of the transfer packet, the Clerk's office will set the matter for the next available Drug Court docket. Further participation in Drug Court shall be as set forth in Section IV above.

This administrative order replaces and supersedes prior Administrative Order 4.10(v1) entitled "Adult Drug Court," entered October 5, 2012.

ORDERED ON this 20 day of August 2018.



Toby S. Monaco, Chief Judge