

THE EIGHTH JUDICIAL CIRCUIT OF FLORIDA
ADMINISTRATIVE ORDER NO. 4.16

CIRCUIT-WIDE CRIMINAL ALTERNATIVE SANCTIONS PROGRAM

In order to provide for successful completion of community supervision and reduce victimization and recidivism; and

WHEREAS, there is a substantial number of technical violations of probation that do not involve a new arrest or other serious violations; and

WHEREAS, arresting and incarcerating certain non-violent offenders for minor violations of probation or community control is expensive and counterproductive; and

WHEREAS, there is research that supports that recidivism can be reduced by utilizing collaborative efforts among the courts, probation and law enforcement to hold the offender accountable and apply swift and certain sanctions for technical violations of probation or community control; and

WHEREAS, an administrative option for processing technical violations has the potential to offer benefits including reducing court dockets for probation and community control violation hearings, reducing the workload of prosecutors and defense attorneys involved in technical violation hearings, reducing law enforcement time required to serve violation warrants for certain technical violations, and reducing jail population for offenders waiting for technical violation hearings, and

WHEREAS, offering the offender an alternative to a violation hearing in court permits the offender to remain employed, in school, or in treatment, and further allows the offender to accept immediate responsibility for his/her actions; it is therefore

ORDERED:

I. ALTERNATIVE SANCTIONS PROGRAM

There is created in the Eighth Judicial Circuit a program that shall be known as the Criminal Alternative Sanctions Program. This program is for alleged “low risk” and “moderate risk” violations.

II. ELIGIBILITY

To be eligible for the program, offenders must be placed on probation or community control by the Court, be under the supervision of the Department of Corrections, have strong community ties, and have a stable residence in a county within the Eighth Judicial Circuit. The program is offered only to those offenders who have committed “low risk” and “moderate risk” violations, as defined in section 948.06, Florida Statutes, and as addressed in the Alternative Sanctions Program Violation/Sanction Matrix included in Section III of this order.

The offender’s threat to public safety is the most important factor in determining his/her eligibility. A probationer or offender on community control is eligible for an alternative sanction unless excluded pursuant to section 948.06(9)(d), Florida Statutes. Additionally, the following offenders are not eligible for participation in the alternative sanctions program: (1) offenders with a lengthy or violent criminal history, including sex offenders; (2) offenders who have committed new law violations, are absconders, or have violated a “no contact” condition of supervision; and, (3) offenders having three or more previous violations.

III. QUALIFYING “LOW RISK” AND “MODERATE RISK” VIOLATIONS AND APPROVED SANCTIONS

The following matrix lists the specific qualifying “low risk” and “moderate risk” violations that may be addressed through the Alternative Sanctions Program process. Each “low risk” and “moderate risk” violation includes a list of sanctions determined and approved by the Court for the probation officer to select from when reporting these violations, based on the individual offender’s circumstances at the time of the violation. An offender’s participation in the Alternative Sanctions Program and completion of any alternative sanction(s) does not alter or reduce an offender’s obligation to complete all other conditions of probation or community control imposed by the Court.

ALTERNATIVE SANCTIONS PROGRAM VIOLATION/SANCTION MATRIX

VIOLATION	APPROVED LIST OF SANCTIONS
Condition (1): Reported late; failed to report as instructed (Probation and DOP Cases)	<ol style="list-style-type: none"> 1. Report twice a month for 60 days 2. Three days work crew 3. Ten days work crew
Condition (2): Failed to pay Cost of Supervision (COS)	<ol style="list-style-type: none"> 1. No recreational travel 90 days 2. Three days work crew 3. Ten days work crew
Condition (3): Failed to report changes in residence or employment without first procuring the officer's consent (or notifying immediately if evicted from residence or laid off from job)	<ol style="list-style-type: none"> 1. No recreational travel 90 days 2. Three days work crew 3. Ten days work crew
Condition (3): Failed to request permission prior to leaving the county	<ol style="list-style-type: none"> 1. No recreational travel 90 days 2. Three days work crew 3. Ten days work crew
Condition (6): Found to be associating with person(s) engaged in criminal activity	<ol style="list-style-type: none"> 1. Curfew from 10pm to 6am for 90 days (probation officer can modify for treatment/work purposes) 2. Three days work crew 3. Ten days work crew
Condition (7): Positive drug test for non-prescribed drugs (first occurrence)	<ol style="list-style-type: none"> 1. Drug evaluation and successfully complete treatment determined necessary 2. Re-evaluation to determine if more intensive treatment including residential is recommended 3. Two weekends in jail
Condition (8): Failure to maintain employment and failure to comply with adequate job searches.	<ol style="list-style-type: none"> 1. Mandatory registration and participation in employment agency programs 2. Three days work crew 3. Ten days work crew
Condition (10): Failure to pay restitution or court costs (monetary obligations)	<ol style="list-style-type: none"> 1. If unemployed, daily job search and workforce registration 2. Successfully complete budgeting and finance classes 3. No recreational travel/events
Condition (11): Failure to submit to random testing as directed	<ol style="list-style-type: none"> 1. Three days work crew 2. Ten days work crew 3. Two weekends county jail

Special Condition (1): Failure to attend treatment evaluation or treatment session as scheduled	<ol style="list-style-type: none"> 1. Curfew from 10pm to 6am until evaluation completed (probation officer can modify for treatment/work) 2. No recreational travel events 3. AA/NA daily and weekly drug testing until in compliance.
Special Condition (8): Failure to complete community service hours as instructed	<ol style="list-style-type: none"> 1. Curfew from 10pm to 6 am until full compliance (probation officer can modify for treatment/work) 2. No recreational travel until in full compliance. 3. One weekend county jail
Special Condition (9): Failure to remain at residence during curfew period	<ol style="list-style-type: none"> 1. Three days work crew 2. Ten days work crew 3. Two weekends county jail
Community Control Condition (16): Failure to maintain approved schedule – unapproved absence from required location (negligence in getting home late, stopping at store on way home without permission)	<ol style="list-style-type: none"> 1. Three days work crew 2. Ten days work crew 3. Two weekends county jail

In addition to the sanctions listed above, a probation officer may also select any sanction listed in section 948.06, Florida Statutes, for a:

- i. First or second “low risk violation” committed by a probationer; and,
- ii. First “moderate risk violation” committed by a probationer or an offender on community control.

IV. ALTERNATIVE SANCTIONS PROGRAM PROCESS

The probation or community control officer shall inform offenders who have committed violations enumerated in Section III that they may participate in the Alternative Sanctions Program for administrative disposition of the violation. No offender is required to participate in the program and may opt for a formal violation of probation or community control hearing in Circuit Court.

If the offender admits the “low risk” or “moderate risk” violation, agrees to accept the administrative sanction(s) recommended by the probation officer, and agrees to waive a formal

violation hearing to modify his/her sentence, the probation officer will prepare an "Alternative Sanctions Program Technical Violation Notification," which will provide details of the circumstances of the violation that occurred and the probation officer's recommended sanction, based on the sanctions listed in the approved matrix and/or section 948.06, Florida Statutes. If the offender agrees to participate in the Alternative Sanctions Program, he/she will sign the second section of the form entitled "Alternative Sanctions Program Waiver of Formal VOP/VOCC Hearing, Admission of Violation, and Acceptance of Sanctions," which will be submitted to the Court once it has been signed and dated by the probation officer. An offender's prior admission to a "low risk" or "moderate risk" violation may not be used as evidence in subsequent proceedings.

The judge shall review the "Alternative Sanctions Program Technical Violation Notification" and waiver form submitted and, if the judge agrees that the "low risk" or "moderate risk" violation should be addressed via the Alternative Sanctions Program and agrees with the recommended sanction, the judge will sign the "Order - Alternative Sanctions Program." If the judge does not support the sanction recommended by the probation officer or does not agree that the "low risk" or "moderate risk" violation should be addressed via the Alternative Sanctions Program, the judge shall include further instructions on the order. If the judge rejects the probation officer's recommendation to place an offender into the Alternative Sanctions Program, any admission(s) of the "low risk" or "moderate risk" violation by the offender given as a condition of agreeing to enter into the Alternative Sanctions program may not be used as evidence in subsequent proceedings.

Upon approval by the Court, the probation officer will instruct the offender on the sanction imposed by the Court and instruct the offender to take the actions necessary to ensure that the sanction is completed immediately. Furthermore, the probation officer shall inform the offender that failure to complete the imposed sanction as instructed will result in a violation report, affidavit, and warrant being submitted to the Court on the underlying violation. Failure to complete the imposed sanction(s) shall not constitute additional grounds

for violation. No sentencing points will be assessed by virtue of entering into or failing to complete the Alternative Sanctions Program.

V. ADMINISTRATION

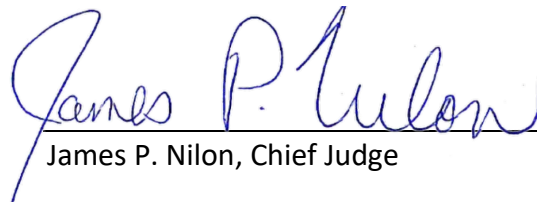
The Criminal Alternative Sanctions Program shall be administered by the Circuit Court and the Florida Department of Corrections.

VI. EFFECTIVE DATE

The effective date of this Order is October 1, 2019.

This Order replaces an supersedes Administrative Order 4.16(v2), "Circuit-wide Criminal Alternative Sanctions Program," dated June 10, 2016.

ORDERED ON this 19th day of December 2019.


James P. Nilon, Chief Judge