

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO AND PINELLAS COUNTIES, FLORIDA**

ADMINISTRATIVE ORDER NO. 2019-066 PA/PI-CIR

RE: ADULT DRUG COURT

Section N of the circuit criminal division in Pinellas County was first created by Administrative Order PI-CIR-00-02 as a regular criminal section in the criminal division. Section N began operating as an adult drug court as contemplated by section 397.334, Florida Statutes, effective January 16, 2001. See Administrative Order 2004-102 PI-CIR.

In 2009, the Florida Legislature amended section 948.08, Florida Statutes, to expand those who are eligible to participate in the drug court program. In 2019, the Fourth District Court of Appeals ruled that an administrative order may not add any requirements which section 948.08, Florida Statutes, does not contain. See *Gincley v. State*, 267 So.3d 444. In order to update the Sixth Circuit's Administrative Order regarding the Adult Drug Court, in accordance with Article V, section 2, of the Florida Constitution, Rule of Judicial Administration 2.215, and § 43.26, Florida Statutes,

IT IS ORDERED:

1. The purpose of drug court is to reduce recidivism by emphasizing treatment and rehabilitation as an alternative to incarceration, while also requiring offender accountability. The goal of drug court is to provide the defendant with the resources and skills necessary to overcome addiction so that the defendant may become a productive member of society.

2. The State Attorney's Office provides pre-trial intervention for certain drug offenders in Pinellas and Pasco counties pursuant to section 948.08, Florida Statutes. Subject to applicable law, defendants who successfully complete the pre-trial diversion program and graduate from the program will have their charges dismissed. The provisions of this Administrative Order do not apply to pre-trial diversion defendants.

3. The Clerk of the Circuit Court in Pasco County shall not assign circuit Criminal cases to section 30 or 31 on a random basis and the Clerk of the Circuit Court in Pinellas County shall not assign Circuit criminal cases on a random basis to section N. Cases shall be assigned to sections 30 and 31 in Pasco County and to section N in Pinellas County in accordance with this Administrative Order. Pasco County sections 30 and 31 and Pinellas County section N are hereinafter referred to as the drug court sections.

4. The State Attorney's Office is to identify which cases are to be heard in drug court. The State Attorney's Office may use whatever procedures it deems appropriate to identify those cases to be heard in drug court. The cases may either be initially assigned by direct information to the drug court section by the State Attorney's Office or be transferred from another criminal section to a drug court section upon written notification by the State Attorney's Office to the Administrative Office of the Courts. The Administrative Office of the Courts shall notify the State Attorney when drug court does not have the capacity for additional defendants.

5. If the defense attorney desires to have a case heard in drug court, he or she must make a request to transfer, which must be processed and approved by the State Attorney's Office.

6. The drug court judge retains the ultimate responsibility for determining that a case assigned to drug court by the State Attorney is appropriate for drug court. While the State Attorney's Office makes the decision whether a case will be filed in or transferred to a drug court section, the judge assigned to a drug court section retains the authority to decide that a case will not remain in that section. If the judge decides that a case will not remain in the drug court section, the State Attorney's Office and the defense attorney shall be notified and the case shall be transferred back to the regular criminal section from which it was transferred. If a case has been initially assigned to a drug court section, the case shall be assigned to another criminal section in accordance with local rule 3.

7. A defendant may voluntarily elect not to have his or her case heard in drug court. Upon a defendant electing not to have his or her case heard in drug court, the case shall be transferred back to the regular criminal section from which it was transferred. If a case has been initially assigned to a drug court section, the case shall be assigned to another criminal section in accordance with local rule 3.

8. By agreeing to have his or her case heard in drug court, the defendant agrees that no depositions will be taken, trial dates scheduled, or substantive pre-trial motions heard. If a pre-trial motion must be heard, the case shall be transferred back to the regular criminal section from which it was transferred. If a case has been initially assigned to a drug court section, the case shall be assigned to another criminal section in accordance with local rule 3.

9. A defendant whose case has been assigned to drug court must voluntarily and truthfully provide information to aid the court at each step in the process. As a condition of having his or her case heard in drug court, the defendant must execute a written consent form with a waiver of confidentiality as to treatment in accordance with 42 C.F.R. § 2.31, prior to disposition of the case. If the defendant refuses to execute the written consent, the case shall be transferred back to the regular criminal section from which it was transferred. If a case has been initially assigned to a drug court section, the case shall be assigned to another criminal section in accordance with local rule 3.

10. Before a plea is tendered or a defendant can be sentenced in drug court, the defendant must submit to an initial substance abuse evaluation. The evaluation should occur within 21 days of arraignment or within such other time as may be ordered by the court. The evaluation provides an overall assessment of the defendant's addiction and the resources needed to overcome that addiction. The provider who administers the evaluation must use objective standards and criteria and must be licensed by the Department of Children and Families. The written evaluation is the primary document consulted by the trial judge in fashioning an appropriate sentence.

11. Staff in the Administrative Office of the Courts facilitate the process by which a defendant is evaluated; coordinate the procedure by which the written evaluation is furnished to the state, defense counsel, and the trial judge; assist the court in managing its caseload; compile statistics; prepare the cases scheduled on the calendar; schedule initial appointments with treatment

providers; and perform other case management functions for the courts as required.

12. The sanctions imposed in drug court are within the court's discretion and include but are not limited to outpatient treatment programs, non-secure residential treatment programs, and intensive, secure, long-term residential treatment programs. Treatment providers must be licensed by the Department of Children and Families for the type of treatment provided. Some providers are funded by Pasco County or Pinellas County and are selected through a request for proposal process. Other providers are funded and selected by the Department of Corrections. Drug court probation is the initial sanction typically imposed. As a condition of drug court probation, a defendant will typically be sentenced to the least intensive treatment program necessary for rehabilitation. Other conditions of probation may be ordered, such as random drug testing or obtaining a G.E.D.

13. The sanctions imposed for a violation of probation are within the trial judge's discretion. The trial judge may continue probation, may revoke probation and order a new term of probation, may impose a term of incarceration in either the county jail or Department of Corrections, as provided by the Criminal Punishment Code, or impose any other sanction authorized by law.

14. Every defendant sentenced in drug court must periodically return to court for a judicial review. The purpose of a judicial review is to assess the defendant's level of participation in treatment, monitor the overall success of treatment, and admonish or encourage the defendant in his or her attempt at rehabilitation. Prior to a judicial review, the judge may hold a case staffing with treatment providers, court staff, Department of Corrections personnel, assistant public defenders, assistant state attorneys, and others selected by the judge.

15. Defendants who successfully complete and graduate from adult drug court may have an adjudication of guilt withheld or receive a reduced probationary period.

16. The trial judge will review a defendant's successful completion of the assigned treatment. The trial judge will make the ultimate decision as to whether a defendant may graduate from drug court.

Administrative Order 2007-001 is hereby rescinded.

DONE AND ORDERED in Chambers at St. Petersburg, Pinellas County, Florida, this _____ day of, 2019.

ORIGINAL SIGNED ON OCTOBER 8, 2019
BY ANTHONY RONDOLINO, CHIEF JUDGE

cc: All Judges
The Honorable Bernie McCabe, State Attorney
The Honorable Bob Dillinger, Public Defender
The Honorable Nikki Alvarez-Sowles, Clerk of the Circuit Court, Pasco County
The Honorable Ken Burke, Clerk of the Circuit Court, Pinellas County
The Honorable Bob Gualtieri, Sheriff, Pinellas County
Gay Inskeep, Trial Courts Administrator
Ita M. Neymotin, Regional Counsel, Second District
Ngozi Acholonu, Assistant Regional Counsel
Bar Associations, Pasco and Pinellas Counties
Law Libraries, Pasco and Pinellas Counties