

**IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR MARION COUNTY, FLORIDA**

Administrative Order No.: M-2020-04

**ADMINISTRATIVE ORDER RE-ESTABLISHING FELONY PRE-TRIAL
TREATMENT-BASED DIVERSION DRUG COURT IN MARION
COUNTY AND APPOINTING JUDGE TO PRESIDE OVER THE MARION
COUNTY FELONY PRE-TRIAL TREATMENT-BASED DIVERSION
DRUG COURT PROGRAM**

WHEREAS, Pursuant to Article V, Section 2(d) of the Florida Constitution, and section 43.26, Florida Statutes, the chief judge of each judicial circuit is charged with the authority and the power to do everything necessary to promote the prompt and efficient administration of justice;

WHEREAS, Florida Rule of Judicial Administration 2.215(b)(3) states the chief judge "shall, considering available resources, ensure the efficient and proper administration of all courts within [this] circuit.";

WHEREAS, Section 397.334, Florida Statutes, authorizes the establishment of treatment-based drug court programs to include pretrial treatment-based drug court programs authorized by Section 948.08(6), Florida Statutes;

WHEREAS, The proper implementation of the Pre-Trial treatment-based diversion adult drug court program provides a valuable alternative to prosecution in appropriate cases;

WHEREAS, The adult drug court program provides a substantial benefit to the criminal justice system and the community as a whole for defendants who are identified as having substance abuse disorders, meet the requirements for participation in adult drug court, and qualify pursuant to Section 397.334, Florida Statutes, as well as Section 948.06, Florida Statutes;

WHEREAS, The Florida Supreme Court has adopted the Florida Adult Drug Court Best Practice Standards, which are modeled on the National Association of Drug Court Professionals Adult Drug Court Best Practice Standards, Vol. I (2013) and Vol. II (2015) and intended to define clearly the practices that adult drug courts should implement in order to adhere to evidence-based principles that have been shown to improve overall court outcomes;

WHEREAS, In accordance with the authority vested in the chief judge by Article V, Section 2(d) of the Florida Constitution, Section 43.26, Florida Statutes, and Florida Rule of Judicial Administration 2.215. The Chief Judge has previously authorized the existence of Felony Pre-Trial Treatment-Based Diversion Drug Court programs (A-2013-17).

WHEREAS, it is necessary for the efficient administration of justice, it is therefore,

ORDERED that:

I. General Provisions

- (1) Florida's Adult Drug Court Best Practices Standards are hereby adopted and, to the extent practical and possible, shall be implemented and utilized by the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program. Nothing in the Florida Adult Drug Court Best Practice shall supersede any rights afforded to a defendant by the United States Constitution, Florida Constitution, or Florida Statutes.**
- (2) Entry into the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program is voluntary and subject to funding for pretrial programs.**
- (3) Violation of felony probation charges are not eligible for entry into the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program.**
- (4) A defendant eligible to participate in Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program who elects not to enter into the program or pleads to probation without treatment will have their case transferred to the originally assigned circuit criminal division by the presiding drug court judge.**

- (5) The Clerk of the Court shall assign transferred cases to the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program division as required by any and all directives either by administrative order or other directive from the Chief Judge. This provision is directed only to those matters wherein the Clerk of the Court is requiring the entry of an administrative order for internal operating procedure.
- (6) The Circuit Judge assigned to the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program shall make the final determination of the defendant's eligibility for the voluntary entry in the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program. The State Attorney shall advise the Court if the defendant is eligible to participate in the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program.
- (7) If the State Attorney objects to a case being transferred to the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program based upon allegations the defendant was dealing or selling the controlled substance, which is the basis for the arrest, he or she shall advise the Court. Thereafter, the Judge assigned to Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program shall conduct a pre-admission hearing in accordance with 948.16, Florida Statutes.
- (8) If the objection is sustained, the defendant's case shall be transferred to the originally assigned felony criminal division Judge for further proceedings.

II. Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program

- (1) A person is eligible for voluntary admission into the Marion County Felony Pre-Trial Treatment-based Diversion Court Program, subject to Florida Statute Section 948.08(6). Admission shall be for a period of not less than one (1) year in duration, if he or she:
 - a. Is identified as having a substance abuse problem and is amenable to treatment;
 - b. Is charged with a non-violent felony as defined by Florida Statute Section 948.08(6)(a);

- c. Has never been charged with a crime involving violence including, but not limited to, murder, sexual battery, robbery, car-jacking or any other crime involving violence; AND
 - d. Has two or fewer felony convictions, provided that the prior convictions are for non-violent felonies.
- (2) Defendants eligible for participation in the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program may enter the program by:
 - a. Referral by the Marion County Drug Court Office and a transfer order entered by the Judge presiding over the Marion County Felony Pre-Trial Treatment-Based Diversion Drug Court; or
 - b. A transfer order entered by a circuit criminal division judge. The Drug Court Manager/Coordinator shall review any case before the circuit criminal division judge signs a transfer order. Prior to accepting eligible defendants into drug court, the presiding drug court judge should evaluate each individual on a case-by-case basis, solicit input from the drug court team members, and consider, inter alia, the availability of suitable treatment options and public safety.
- (3) The Marion County Drug Court Office will expeditiously interview the in-custody arrestees to make a preliminary determination as to the eligibility of each to participate in the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program and inform the First Appearance Judge. The First Appearance Judge may order the arrestee into the Program if the conditions set forth in Section 948.08(6), Florida Statutes are satisfied.
- (4) In addition to any other conditions of participation imposed by the Marion County Drug Court Office, the following conditions are also imposed:
 - a. The defendant must immediately report to and attend the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Treatment Program as directed by the Marion County Drug Court Office; and
 - b. The defendant must personally appear at all court hearings as instructed by the Marion County Drug Court Office officer and/or counselor.

- (5) The Marion County Drug Court Office will furnish on a weekly basis to the Department of Corrections, a list of the individuals preliminarily determined to be eligible for participation in the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program and on pretrial release together with the applicable booking sheet, probable cause affidavit, criminal records investigation report, and pretrial drug court release order.
- (6) If an arrested individual posts a cash or surety bond, the Marion County Drug Court Office shall review the individual's criminal history to determine if the arrest was for a qualifying charge and may be eligible for the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program. ¹
- (7) The Marion County Drug Court Office will advise the Clerk of the Court of the cases in which the defendant is out on bond or in the pretrial release program that shall be set in a drug court division for arraignment and/or judicial determination of eligibility to participate in the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program.
- (8) Arraignment. The defendant, along with their attorney, if one has been appointed or retained, shall be present at arraignment. At arraignment, the defendant may:
 - a. Opt into the Program²; or
 - b. Opt out of the Program. The case shall be transferred to a non-drug court circuit criminal division for an additional arraignment and further proceedings and the case shall no longer be eligible for the Marion County Felony Pretrial Intervention Drug Court Program for dismissal.
- (9) The judge assigned to the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program shall order a professional substance abuse assessment at the defendant's first hearing in the division and reset the defendant

¹ To expedite and encourage immediate participation by an individual released from jail on bond, the Marion County Jail will notify the arrested individual of the possibility of participating in the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program. The notice shall contain information as to where the arrested individual is to report or who to contact if he or she is interested in receiving additional information.

² If a defendant opts in, he or she shall execute an agreement to comply with the Program and all pretrial intervention requirements of the Florida Department of Corrections. The Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program may require residential treatment.

for a hearing to determine their admittance to the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program.

(10) The participation requirements for the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program are:

a. A minimum of one (1) year and no more than eighteen (18) months attendance and active participation in the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program.

b. Full payment of restitution, if applicable, as set forth in paragraph (13) of this Administrative Order.

c. Substantial compliance with:

i. All terms of the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program;

ii. All orders of the court, including attendance at all status hearings;

iii. The rules and regulations of Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program ; and

iv. The rules and regulations of the Department of Corrections.

(11) At the one (1) year anniversary of entry into the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program, the court shall conduct a status conference and determine if:

a. The defendant successfully completed all terms and conditions of the Program.

b. The defendant is successfully finishing all terms and conditions of the Program and will complete same within the next six (6) months.

c. The defendant has not successfully completed all the terms and conditions of the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program and will not complete same within the next six (6) months. In this case, the presiding drug court judge must:

- i. Order continued treatment if there exists good cause for such continued monitoring and treatment;
- ii. Resolve the defendant's case as long as the defendant, the State and the drug court judge agree to resolve the defendant's case in front of the drug court judge; or
- iii. Transfer the case to the originally assigned criminal division.

- (12) At the eighteen (18) month anniversary of entry into the Marion County Felony Pre-Trial Intervention Drug Court Program, the court shall conduct a status conference and determine whether the defendant successfully completed the requirements of the Program. If the defendant has not successfully completed the Program, absent a finding of good cause by the presiding drug court judge, the drug court judge must transfer the case to the originally assigned criminal division unless the defendant, the State and the drug court judge agree to resolve the defendant's case in front of the drug court judge.
- (13) Restitution, if applicable, must be determined prior to the defendant's case being transferred to drug court. Once the restitution amount is determined, the defendant must agree, in writing, to a payment schedule for complete payment of restitution. Restitution must be fully paid prior to a defendant's charges being dismissed upon successful completion of treatment, unless the victim agrees to waive restitution, or the court determines, upon appropriate showing, that the defendant is unable to pay. If the court determines the defendant is unable to pay restitution, the presiding drug court judge may consider all alternatives for payment of restitution, including converting the restitution into a civil lien. If a defendant has not fully paid restitution upon their successful completion of treatment, and the victim does not agree to waive restitution and/or the court determines the defendant able to pay, the presiding drug court judge may extend the defendant's participation in drug court for such period as may be necessary for the defendant to comply with their restitution obligation. The presiding drug court judge shall hold routine hearings to inquire into the defendant's compliance with restitution and may enter any such orders as may be necessary to enforce payment of restitution.

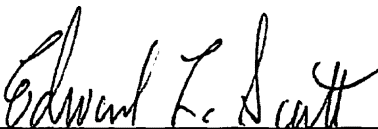
III. Discharge from Drug Court

- (1) A defendant participating in a drug court program shall be terminated from a drug court program if:
- a. There is an outstanding capias for a period of six (6) months for an individual participating in the Marion County Felony Pre-Trial Treatment-based Diversion Drug Court Program; or
 - b. New felony criminal charges are filed against the defendant other than those qualifying offenses encompassed within the provisions of Section 948.06(6), Florida Statutes; or
 - c. The drug court judge determines that the drug court cannot safely monitor the defendant or that there is no suitable treatment for the defendant.

IV. Presiding Judge

In the interest of judicial economy and efficiency and pursuant to Fla.R.Jud.Admin. 2.215(4), The Honorable Robert E. Landt is hereby assigned as a Circuit Court Judge for the purposes of presiding over the Marion County Felony Pre-Trial Treatment-Based Diversion Drug Court.

DONE AND ORDERED in Chambers, at Ocala, Marion County, Florida, this 13th day of January, 2020.



EDWARD L. SCOTT
Marion County Administrative Judge