

**IN THE COUNTY COURT OF MARION COUNTY, FLORIDA**

**ADMINISTRATIVE ORDER NUMBER** M-2018-65

**ADMINISTRATIVE ORDER  
TO IMPLEMENT AN ALTERNATIVE SANCTION PROGRAM  
FOR MARION COUNTY COURT PROBATION CASES**

**WHEREAS**, Florida Statute 948.01 provides for the County Court in Marion County to impose probationary sentences on certain Offenders with misdemeanor cases in the Marion County Court and Florida Statute 948.15 provides for Misdemeanor probation services and Florida Statute 948.06(1)(h) provides for an “alternative sanctioning program” specific to felony cases in Circuit Court but having substantive merit regarding misdemeanor probation cases in the Marion County Court; and

**WHEREAS**, there are many violations of probation that can be considered “technical” because they do not involve, *inter alia*, any act of violence, a new arrest, a positive drug or alcohol screen, absconding, a violation of a “no or peaceful only contact” condition or some other violation that presents a serious threat to the safety of the Offender or to the community at large; and

**WHEREAS**, arresting and incarcerating certain non-violent Offenders for technical violations of probation is expensive and generally non-productive; and

**WHEREAS**, the goal of the County Court in placing an Offender on probation is to have that Offender successfully complete all of the conditions of their probationary sentence; and

**WHEREAS**, there is scholarly research which shows that recidivism may 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 without resort to incarceration; and

**WHEREAS**, an administrative option for processing technical violations will offer benefits to Marion County including:

- Reducing the number of probation violation hearings while reducing the workload of the prosecutors and defense attorneys necessary for those hearings;
- Reducing law enforcement resources required to serve violation warrants;
- Reducing jail population of Offenders pending violation hearings; and
- Offering Offenders an alternative to a violation hearing in Court which allows the Offender to remain engaged in employment, school and/or treatment while taking immediate responsibility for their actions and accepting measured consequences for those actions.

**NOW, THEREFORE**, it is **ORDERED AND ADJUDGED** as follows:

**1. ALTERNATIVE SANCTION PROGRAM.**

There is created in Marion County, Florida, a program that shall be known as the “Marion County Misdemeanor Alternative Sanction Program” or “MASP”. The MASP is to provide the Marion County Court and the provider of misdemeanor probation services in Marion County which is Salvation Army Correctional Services [“SACS”] an administrative method of reporting and resolving certain technical violations of misdemeanor probation which shall be an alternative to submitting violation of probation affidavits and warrants to the Marion County Court and in lieu of an Offender being incarcerated.

**2. ELIGIBILITY CRITERIA.**

To be eligible for the MASP, Offenders must have been placed on probation under the supervision of SACS by a judge in Marion County. The MASP only applies to Offenders who have committed certain technical violations addressed in the “Violation and Sanction Matrix” referenced in Section 3 of this Order. The threat an Offender poses to public safety is the most important factor in determining eligibility. Offenders with a lengthy or violent criminal history

and sex Offenders are not eligible to be in the program. Additionally, Offenders who are alleged to have violated probation by a new law violation, a positive drug or alcohol screen, a failure to report for the start of probation (absconding), missing 2 or more mandatory appointments (not counting a timely rescheduled and kept appointment) or a violation of a “no or peaceful only contact” condition of supervision are not eligible for the MMASP. No Offender who has 2 or more previous violations of any kind – technical or not - is eligible for the program.

### **3. QUALIFYING TECHNICAL VIOLATIONS AND APPROVED SANCTIONS.**

The “Violation and Sanction Matrix” attached to and incorporated by reference into this Order lists the specific technical violations that may be addressed through the MASP for Offenders sentenced to probation in Marion County. Each technical violation includes a list of sanctions determined and approved by the Marion County Court for the probation officer to select from when reporting any of the applicable technical violations based on the individual Offender’s circumstances at the time of the violation.

### **4. PROCESS FOR HANDLING TECHNICAL VIOLATIONS.**

A. The Probation Officer shall inform an Offender on misdemeanor probation for a Marion County Court case within 14 days of the Officer becoming aware of a violation enumerated in Section 3 of this Administrative Order that the Offender may participate in the MASP with an administrative disposition of the Offender’s violation. In particular, the Probation Officer shall prepare an “Alternative Sanction Program Technical Violation Notification” form [“MASP Notice Form”] and an “Offender’s Waiver of Formal VOP Hearing, Admission of Violation and Acceptance of Sanctions” form [“Offender’s Waiver Form”] and then submit a copy of each of those 2 forms to the Offender. The Offender’s Waiver Form will provide details about the alleged technical violation and the Probation Officer’s recommended

sanction based on the sanctions listed in the MASP matrix. The Offender will have 5 business days from the date the Offender was given these 2 forms to decide whether the Offender wants to participate in the MASP or not and, if the Offender wants to participate, the Offender must within those 5 business day return to the Offender's Probation Officer a fully signed Offender's Waiver Form.

To participate in the MASP, the Offender will have to admit the alleged and eligible technical violation, agree to accept the administrative sanction recommended by the Probation Officer, and agree to waive all rights associated with a formal probation violation hearing. In particular, the Offender is required to agree to waive the Offender's right to:

1. Be represented by legal counsel;
2. Require the State to prove their guilt before the County Judge;
3. Subpoena witnesses and present to the County Judge evidence in their defense;
4. Confront and cross-examine witnesses; and
5. Receive a written statement from the County Judge as to the evidence relied on and the reasons for any sanctions imposed.

If an Offender agrees to all of the requisite waivers and admissions, then the Offender is required to sign the appropriate Offender's Waiver Form prepared for the Offender's case and timely submit that signed form to the Offender's Probation Officer.

The Offender's participation in the MASP is strictly voluntary. No Offender is required to participate in the MASP and may instead choose to have a formal violation of probation proceeding in the Marion County Court. The Offender may elect to waive or discontinue

participation in the MASP at any time before the issuance of a Court order imposing a MASP sanction. If the Offender elects to discontinue participation in the MASP, then that Offender's prior admission to any technical violation of probation may not be used as evidence in any subsequent proceedings. If an Offender does elect to participate in the MASP, then the technical violation and sanction applied through the MASP cannot be used as the basis for any future violation of the Offender's probation in the same case provided the Offender successfully and timely completes whatever alternative sanction is imposed on the Offender. The failure of an Offender to successfully and timely complete whatever alternative sanction is imposed, an Offender's decision to not participate in the MASP or an Offender's decision to discontinue to participate in the MASP may result in a violation of probation charge being presented by affidavit and warrant/notice to appear request to the County Court with possible arrest and formal VOP proceedings to follow.

B. If the technical violation occurs within the first half of an Offender's term of probation, then the Offender and Probation Officer will be required to follow the steps listed here in Part B of Section 4 of this Administrative Order. If an Offender agrees to participate in the MASP, then the Offender will be required to timely sign and submit the Offender's Waiver Form as required by the provisions of Part A immediately above. The Probation Officer and Probation Director will then sign and date the Offender's Waiver Form and promptly submit it to the County Court Judge assigned to the case along with a criminal history summary for the Offender.

C. If the technical violation occurs within the second half of an Offender's term of probation, then Probation Officer shall prepare a MASP Notice Form in addition to an Offender's Waiver Form with copies timely given to the Offender. To participate in the MASP, the Offender will have to do everything set forth above in section B. IF the Offender timely signs

the Offender's Waiver Form, then the Probation Officer will prepare for the County Court to issue a Notice To Appear with a mandatory court appearance date set for approximately three months from the date the Offender signed the Offender's Waiver Form to participate in the MASP. The Notice To Appear issued by the Court will toll the Offender's probationary period to allow the Offender additional time to complete the Offender's sanction and all remaining conditions of the Offender's probationary sentence or sentences.


D. The County Judge shall review the fully signed and submitted Offender's Waiver Form and the Offender's criminal history summary and, if the County Judge agrees that the technical violation should be addressed by the MASP and the County Judge agrees with the recommended sanction, then the County Judge will sign an "Alternative Sanction Program Order" to impose the recommended sanction. If the County Judge does not agree that the technical violation should be addressed via the MASP or does not agree with the particular sanction recommended by the Probation Officer, then the County Judge shall enter an Alternative Sanction Program Order to indicate such and to include further instructions.

E. Upon entry of an Alternative Sanction Program Order, the Probation Officer will instruct the Offender on the sanction imposed by the County Court and instruct the Offender to take actions necessary to ensure the sanction is timely completed. Failure to complete the imposed sanction as instructed or failure to comply with any originally imposed conditions of any probation order entered in an Offender's case will result in a violation report, affidavit and notice to appear or warrant being submitted to the County Court.

5. **ADMINISTRATION AND EFFECTIVE DATE.**

The Alternative Sanctioning Program established by this Administrative Order shall be administered by The Salvation Army Correctional Services and the provisions of this Order shall take effect on December 1, 2018.

**DONE AND ORDERED** in Chambers at Ocala, Marion County, Florida, this 4<sup>th</sup> day of November, 2018.

  
\_\_\_\_\_  
R. James McCune, Jr.  
Administrative County Court Judge  
for Marion County, Florida

**MARION COUNTY MISDEMEANOR ALTERNATIVE SANCTION PROGRAM**

**VIOLATION/SANCTION MATRIX**

<b>VIOLATION</b>	<b>APPROVED LIST OF SANCTIONS</b>
Condition (2): No Call/No Show for a Schedule Appointment with Probation Counselor	<ol style="list-style-type: none"> <li>1. Weekly Phone Call to Probation Counselor for 4 Weeks</li> <li>2. Report Biweekly for Appointments with Probation Counselor for 2 Months</li> <li>3. \$5.00 Missed Appointment Fee</li> <li>4. Enroll and Complete a Life Skills Course within 30 days</li> </ol>
Condition (3): Voluntary admittance to Use of Drugs or Alcohol before a positive screen is had	<ol style="list-style-type: none"> <li>1. Weekly Phone Call to Probation Counselor for 2 Months</li> <li>2. Within 7 days, enroll and complete an Alcohol/Substance Evaluation and comply with treatment as recommended</li> <li>3. If Defendant is already in treatment, within 7 days advise treatment of violation and increase level of treatment program</li> <li>4. 3 AA/NA/Support Group Meetings for 2 months</li> <li>5. Enroll and Complete a Life Skills Course within 30 days</li> </ol>
Condition (6): Failure to gain and/or maintain employment	<ol style="list-style-type: none"> <li>1. Weekly phone call to Probation Counselor until employed</li> <li>2. Must complete a Job Search Form every week until employed</li> <li>3. Within 7 days, Defendant must provide proof of attending Career Source and show proof of meeting with a Career Coach</li> </ol>
Failure to Complete the Monetary and/or Non-Monetary Conditions by the Court-ordered deadline after demonstrating a good faith effort to complete all conditions.	<ol style="list-style-type: none"> <li>1. A Notice to Appear is sent to the Court to toll probation</li> <li>2. A court date is given for a VOP Hearing no later than 3 months from acceptance of the sanction</li> </ol>



	<ol style="list-style-type: none"><li>3. Pay \$30.00 cost of supervision for each of the 3 months in the sanction program</li><li>4. Weekly contact with your Probation Counselor</li><li>5. Must show weekly progress toward completing the outstanding conditions</li></ol>
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IN THE COUNTY COURT OF  
MARION COUNTY, FLORIDA

STATE OF FLORIDA

VS.

CASE NO. \_\_\_\_\_

\_\_\_\_\_  
Defendant

**OFFENDER CRIMINAL HISTORY**

CHARGE(S)	YEAR	LOCATION	DISPOSITION

\_\_\_\_\_  
Officer Signature/Date

\_\_\_\_\_  
Director Signature/Date

STATE OF FLORIDA.

IN THE COUNTY COURT OF  
MARION COUNTY, FLORIDA

VS

Judge \_\_\_\_\_

Case # \_\_\_\_\_

\_\_\_\_\_  
Defendant

**ALTERNATIVE SANCTION PROGRAM ORDER**

It appears that the defendant has materially violated one or more conditions of probation but has not committed a new law violation and is otherwise eligible to participate in the Alternative Sanction Program.

The Court has reviewed the Alternative Sanction Program Notification of Technical Violation and Defendant's Waiver of Formal VOP Hearing, Admission of Violation, and Acceptance of Sanctions form, a copy of which is attached, and approves the following sanction selected: \_\_\_\_\_.

Accordingly,

**IT IS ORDERED:**

1. As a condition of the defendant's supervision, the defendant shall complete the sanction selected.
2. The Salvation Army Correctional Services is directed to forward a violation of probation report, affidavit and warrant to the Court in the event the defendant fails to satisfactorily complete the sanction selected.

**OR**

The Court does not approve the use of the Alternative Sanction Program and directs The Salvation Army Correctional Services to submit a Violation Report, Affidavit and Warrant to address this alleged violation.

ORDERED, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
JUDGE OF COUNTY COURT IN AND FOR  
MARION COUNTY, FLORIDA

Original: Clerk of Court  
Copies: Defendant file  
Defendant  
State Attorney