

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

ADMINISTRATIVE ORDER: M-2022-13

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

AND

**VACATING AND REPLACING ADMINISTRATIVE ORDER
M-2020-04**

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; and,

WHEREAS, Section 948.08(6), Florida Statutes, authorizes the Chief Judge to approve treatment-based drug court programs, including pretrial treatment-based drug court programs established pursuant to Section 397.334 Florida Statutes; and,

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

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

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; and

WHEREAS, it is deemed necessary and appropriate for the prompt, effective, and efficient administration of justice within the Fifth Judicial Circuit; in and for Marion County; to maintain a pre-trial felony drug court;

It is therefore;

ORDERED as follows:

I. General Provisions

- (1) Florida's Adult Drug Court Best Practices Standards are hereby adopted and, to the extent practical and possible, should be implemented and utilized by the Marion County 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 Pre-Trial Treatment-based Diversion Drug Court Program is voluntary, and subject to funding provided for the pre-trial program.
- (3) Pursuant to Section 397.334(2), Florida Statutes, the court may order an eligible individual to enter into a pretrial treatment-based drug court program only upon written agreement by the individual, which shall include a statement that the individual understands the requirements of the program and the potential sanctions for noncompliance.

- (4) While enrolled in a treatment-based drug court program, the participant is subject to a coordinated strategy developed by a drug court team. The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider as defined in Section 397.311, Florida Statutes, or in a jail-based treatment program, or serving a period of secure detention pursuant to Chapter 985, Florida Statutes, if a child, or a period of incarceration within the time limits established for contempt of court if an adult. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a treatment-based drug court program.
- (5) Violation of felony probation charges are not eligible for entry into Marion County Pre-Trial Treatment-based Diversion Drug Court Program.
- (6) The Clerk of the Court shall assign transferred cases to the Marion County Pre-Trial Treatment-based Diversion Drug Court Program division as required by any directives either by administrative order or other directive from the Chief Judge. This provision is directed only to those matters wherein the Clerk of Court is requiring the entry of an administrative order for internal operating procedure.
- (7) In cases where the defendant is charged with a felony, the circuit judge assigned to the defendant's case shall have the exclusive authority to make the determination regarding the defendant's eligibility for entry into the Marion County Pre-Trial Treatment-based Diversion Drug Court Program, consistent with the provisions contained in Section 948.08(6)(c), Florida Statutes.**
- (8) The state attorney shall advise the Court if the defendant is eligible to participate in the Marion County Felony Pre-Trial

Treatment-based Diversion Program. If the State Attorney objects to the defendant's admission into the program based on a belief that the facts and circumstances of the case suggest the defendant's involvement in the dealing and selling of controlled substances, the Court shall hold a preadmission hearing. If the state attorney establishes by a preponderance of evidence at such hearing that the defendant was involved in the dealing or selling of controlled substances, the Court shall deny the defendant's admission into the program. For felonies, the preadmission hearing shall be conducted by the circuit judge assigned to the case. For misdemeanors, the preadmission hearing shall be conducted by the Marion County Pre-Trial Treatment-based Diversion Drug Court Program's presiding judge.

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

- (1) A person is eligible for voluntary admission into the Marion County Pre-Trial Treatment-based Diversion Court Program, subject to Section 948.08(6), Florida Statutes. 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 Section 948.08(6)(a), Florida Statutes;
 - c. Has never been charged with a crime involving violence including, but not limited to, murder, sexual battery, robbery, carjacking 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 Pre-Trial Treatment-based Diversion Drug Court Program may enter the program by:
- a. **For misdemeanor cases:** 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. **For felony cases:** 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. **All Defendants charged with a felony offense shall continue to appear for all felony court dates until such time as the circuit judge enters an order transferring the case to the Marion County Pre-Trial Treatment-based Diversion Drug Court Treatment Program.**
- (3) 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 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.

- (4) For misdemeanor cases, the defendant, along with their attorney, if one has been appointed or retained, shall be present at arraignment. At arraignment, the defendant may opt into the program ¹
- (5) The judge assigned to the Marion County 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 for a hearing to determine their admittance to the Marion County Pre-Trial Treatment-based Diversion Drug Court Program.
- (6) The participation requirements for the Marion County 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 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 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 Pre-Trial Treatment-based Diversion Drug Court Program; and

¹ If a defendant opts in, he or she shall execute an agreement to comply with the Program and all Pre-Trial intervention requirements of the Florida Department of Corrections. The Marion County Pre-Trial Treatment-based Diversion Drug Court Program may require residential treatment.

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

- (7) At the one (1) year anniversary of entry into the Marion County 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 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; or
 - ii. Transfer the case to the originally assigned criminal division
- (8) At the eighteen (18) month anniversary of entry into the Marion County 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, the presiding drug court judge shall transfer the case to the originally assigned criminal division.
- (9) 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 that the defendant is unable to fully pay restitution. 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 is able to pay restitution but has not fully paid restitution upon their completion of treatment, and the victim does not agree to waive restitution, the presiding drug court judge may extend the defendant's participation in drug court for such a 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 immediately terminated from the drug court program if:
 - a. There is an outstanding capias for a period of sixty (60) days for an individual participating in the Marion County Pre-Trial Treatment-based Diversion Drug Court Program; or
 - b. New felony criminal charges are filed against the defendant; 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; or
 - d. The defendant voluntarily withdraws from participating in the Marion County Pre-Trial Treatment-based Diversion Drug Court Treatment Program.

- (2) Upon termination, the defendant's case will be transferred to the originally assigned criminal division and the defendant shall be placed on the next status/pre-trial docket.

IV. Presiding Judge

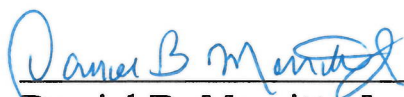
- (1) In the interest of judicial economy and efficiency and pursuant to Florida Rule of General Practice and Judicial Administration. 2.215(b)(4), The Honorable Robert E. Landt is hereby assigned as a Circuit Court Judge for the purposes of presiding over the Marion County Pre-Trial Treatment-based Diversion Drug Court.

FURTHER IT IS ORDERED:

Administrative Order M-2020-04 is hereby **vacated and replaced** by this present order.

Nothing in this administrative order shall be construed to invalidate any properly entered order assigning, sanctioning, or otherwise disposing of any matter previously before any Marion County Judge, including those regarding Pre-trial Drug Court.

DONE AND ORDERED in chambers at Brooksville, Hernando County, Florida this 3rd day of February 2022.



Daniel B. Merritt, Jr.
Chief Judge
Fifth Judicial Circuit