

IN THE CIRCUIT COURT OF FLORIDA, THIRD JUDICIAL CIRCUIT, IN AND FOR
COLUMBIA, DIXIE, HAMILTON, LAFAYETTE, MADISON, SUWANNEE and TAYLOR COUNTIES

ADMINISTRATIVE ORDER 2018-012

CRIMINAL ALTERNATIVE SANCTIONING 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 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 nonproductive; and,

WHEREAS, there is research that supports 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 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 resources 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 their actions and comply with the consequences of those actions;

The Florida Legislature recognizes the value of an alternative sanctioning program for technical violations of probation and community control and has authorized trial court chief judges, in consultation with the state attorney, public defender, and the Department of Corrections to establish a local alternative sanctioning program. Ch.2016-100, § 1, Laws of Florida.

By the power vested in the chief judge under Article V, section 2(d), Florida Constitution; sections 43.26 and 948.06(1)(h), Florida Statutes; and Florida Rule of Judicial Administration 2.215(b)(2), it is therefore

ORDERED:

I. ALTERNATIVE SANCTIONING PROGRAM

There is created in the Third Circuit: Columbia; Dixie; Hamilton; Lafayette; Madison; Suwannee and Taylor Counties, a program that shall be known as the Alternative Sanctioning Program, in accordance with s. 948.06(1)(h), F.S. The Alternative Sanctioning Program provides the court and the Florida Department of Corrections (FDC) an Alternative, administrative method of reporting and resolving certain technical violations in lieu of submitting violation of probation affidavits and warrants to the court.

II. ELIGIBILITY CRITERIA.

To be eligible for the program, offenders must have been placed on probation or community control by a Judge in the Third Circuit and be under the supervision of the Florida Department of Corrections and have strong community ties. The program is offered only to those offenders who have committed certain technical violations as addressed in the Alternative Sanctioning Program Violation/Sanction Matrix included in Section III of this order.

The threat an offender poses to public safety is the most important factor in determining his/her eligibility. Offenders with a lengthy (more than 3 prior felonies) or violent criminal history (Violent Felony Offender "VFO" or would have qualified as a "VFO" but for the offense occurring before the effective date of the Anti-Murder Act), including sex offenders (registered sexual offender; sexual predator; someone on sex offender probation or on Electronic Monitoring because of the Jessica Lunsford Act), are **not** eligible, nor are offenders who have committed new law violations, are absconders, or have violated a "no contact" condition of supervision. Any offender having three or more previous violations (resolved through Court or through an alternative sanctioning program), or a person who has cumulatively violated probation 5 or more times during all periods of felony supervision is not eligible for the program.

III. QUALIFYING TECHNICAL VIOLATIONS AND APPROVED SANCTIONS

The following matrix lists the specific technical violations that may be addressed through the Alternative Sanctioning Program Process. Each technical violation includes a list of sanctions determined and approved by the Court for the probation officer to select from when reporting these technical violations, based on the individual offender's circumstances at the time of the violation.

ALTERNATIVE SANCTIONING 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. Weekly call in for 6 weeks 2. Daily call in for 30 days 3. Report weekly for 60 days
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. Weekly call in for 6 weeks 2. Report 2x per month for 3 months 3. Weekly reporting for 6 weeks
Condition (3): Failed to request permission prior to leaving the county within the State of Florida	<ol style="list-style-type: none"> 1. Report 2x per month for 3 months 2. Weekly reporting for 6 weeks 3. 8pm- 6am curfew for 90 days (probation officer can modify for treatment/work purposes)
Condition (6): Found to be associating with person(s) engaged in criminal activity	<ol style="list-style-type: none"> 1. 8pm- 6am curfew for 90 days (probation officer can modify for treatment/work purposes) 2. Weekly call in for 6 weeks 3. Thinking for a Change (T4C) Program
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. Increase level of treatment program up to and including residential 3. 8pm – 6am curfew for 90 days (probation officer can modify for treatment/work purposes)
Condition (8): Failure to maintain employment and failure to comply with adequate job searches	<ol style="list-style-type: none"> 1. Weekly reporting with job search logs until employed 2. Daily reporting with job search logs until employed 3. 8pm- 6am curfew for 90 days or until employed (probation officer can modify for treatment/work purposes)
Condition (10): Failure to pay restitution or court costs (monetary obligations)	<ol style="list-style-type: none"> 1. If unemployed- daily job searches and workforce registration 2. If employed- monthly budgeting 3. 8pm- 6am curfew for 90 days (probation officer can modify for treatment/work purposes) 4. Weekly call in until monetary obligations are current 5. Extend probation to automatically terminate upon completion of all conditions *
Special Condition (1): Failure to attend treatment evaluation or treatment session as scheduled	<ol style="list-style-type: none"> 1. 8pm -6am curfew for 30 days or until evaluation completed (probation officer can modify for treatment/work) 2. Weekly reporting until evaluation is completed 3. Daily call in until evaluation is completed 4. 90 AA/NA meetings in 90 days

Special Condition (8): Failure to complete community service hours as instructed	<ol style="list-style-type: none"> 1. Completion of Cognitive Behavioral Program 2. If unemployed- Daily Reporting until community service hours are compliant 3. If employed- Weekly reporting until community service hours compliant 4. 8pm- 6am curfew until full compliance
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*An Affidavit and Notice to Appear will be filed with this sanction to toll the supervision. Once the offender pays all obligations in full, the Affidavit will be dismissed.

IV. ALTERNATIVE SANCTIONING PROGRAM PROCESS

The probation or community control officer may inform offenders who have committed violations enumerated in Section III of this administrative order that they may participate in the Alternative Sanctioning 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. The offender’s participation in the Alternative Sanctioning Program is voluntary. The offender may elect to waive or discontinue participation in the Alternative Sanctioning Program at any time before the issuance of a court order imposing the recommended sanction. If the offender elects to discontinue participation in the Alternative Sanctioning Program, the offender’s prior admission to the technical violation may, subject to legal objections be used as evidence in subsequent proceedings. No sentencing points will be assessed by virtue of entering into the alternative sanctioning program, however points can be assessed if there is a failure to complete the alternative sanctioning program and the offender is, after hearing, found to have violated the underlying violation that led to the participation in the alternative sanctioning program.

If the offender admits the violation, agrees to accept the administrative sanction(s) recommended by the probation officer, and agrees to waive his/her 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 technical violation that occurred and the probation officer’s recommended sanction, based on the sanctions listed in the approved matrix. If the offender agrees to participate in the Alternative Sanctioning Program, he/she will sign the second section of the form entitled “Alternative Sanctioning 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.

The Judge shall review the “Alternative Sanctioning Program Technical Violation Notification” and waiver for submitted and, if the Judge agrees that the technical violation should be addressed via the Alternative Sanctions Program and agrees with the recommended sanction, the Judge will sign the “Order- Alternative Sanctioning Program.” If the Judge does not support the sanction recommended by the probation officer or does not agree that the technical violation should be addressed via the Alternative Sanctioning Program, the Judge shall include further instructions on the order. In either situation, the judge shall place the original of the order in the court file and send a copy to the Department. If the court rejects the Department’s recommendation to place a Defendant into the

program, any admissions of violation by Defendant given as a condition of agreeing to enter into the program shall not be admissible against Defendant in any court proceedings.

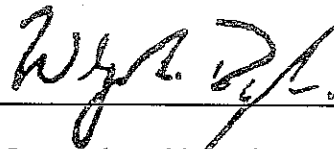
Upon approval by the Court, the probation officer will review the sanction with the offender, and inform the offender that failure to complete the imposed sanction as instructed will result in a violation report, affidavit and warrant being submitted to the Court for the original underlying violation. There will be no violation submitted for failure to complete the alternative sanction. FDC will provide a copy of the Alternative Sanctioning Program Technical Violation Notification to the State Attorney's office for their records.

At the discretion of FDC, if the offender is deemed to have successfully completed the alternative sanctioning program, a notice of successful completion shall be filed with the court and the State shall be prohibited from prosecuting Defendant on the underlying violation of probation.

V. **ADMINISTRATION**

The Criminal Alternative Sanctioning Program shall be administered by the Third Judicial Circuit Court and the Florida Department of Corrections, **effective July 1, 2016 subject to the amendments set forth in this order effective on the date signed below.**

ORDERED ON this 25 day of October, 2018.



Wesley R. Douglas, Chief Judge

Copies Furnished to:

Jeff Siegmeister, State Attorney
M. Blair Payne, Public Defender
Julie Eveslage, Florida Department of Corrections