

Filed and Recorded in Official Records of  
**MONROE COUNTY KEVIN MADOK, CPA**

ADMINISTRATIVE ORDER 4.013

IN RE: ESTABLISHMENT OF AN ALTERNATIVE  
SANCTIONS PROGRAM FOR FELONY OFFENDERS

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**WHEREAS**, there are a substantial number of technical violations of probation or community control that do not involve a new arrest or other serious violation; and

**WHEREAS**, arresting and incarcerating certain non-violent offenders for minor violations of probation or community control may be both expensive and nonproductive; and

**WHEREAS**, there is research showing that recidivism may be reduced by utilizing collaborative efforts among the courts, probation departments and law enforcement agencies to hold offenders accountable by applying swift and well-defined sanctions for technical violations of probation or community control; and

**WHEREAS**, an administrative option for processing technical violations will have the potential to offer benefits including:

- Reducing the court docket of probation and community control violation hearings;
- Reducing the workload of prosecutors and defense attorneys involved with technical violation hearings;
- Reducing law enforcement resources required to serve violation warrants for certain technical violations;
- Reducing jail population for offenders pending violation hearings; and
- Offering offenders an alternative to a violation hearing in court, which will allow offenders to remain engaged in employment, school, treatment, etc. and allow the offenders to take immediate responsibility for their actions and comply with the consequences of those actions; and

**WHEREAS**, House Bill 7125, passed by the Florida Legislature and subsequently signed into law, amends provisions of Florida Statute 948.06 which requires the establishment of an Alternative Sanctions Program in each judicial circuit.

It is therefore, by the authority vested in the Chief Judge pursuant to Florida Rule of Judicial Administration 2.215 and section 948.06(9)(a) Fla. Stat. **ORDERED** as follows:

1. **ALTERNATIVE SANCTIONS PROGRAM.** The Alternative Sanctions Program is created in the Sixteenth Judicial Circuit, Monroe County, Florida.
2. **ELIGIBILITY CRITERIA.** The program is available to any person who is on probation, drug offender probation or community control under the supervision of

the Florida Department of Corrections, has stable community ties and has a stable residence in Monroe County.

- a. The program is only available to offenders who have committed a low-risk or moderate risk technical violation identified in the Qualifying Technical Violations, section 3 below.
- b. Probationers or offenders on community control are not eligible for an alternative sanction per Florida Statute 948.06(9)(d) if:
  - i. He or she is a violent Felony Offender of special concern per Florida Statute 948.06(8)(b);
  - ii. The violation is a felony, misdemeanor or criminal traffic offense;
  - iii. The violation is absconding;
  - iv. The violation is a violation of a stay-away or no-contact order;
  - v. The violation is not identified as low-risk or moderate-risk under Florida Statute 948.06(9)(b)(c);
  - vi. He or she has a prior moderate-risk level violation during the current term of supervision;
  - vii. He or she has three prior low-risk level violations during the same term of supervision;
  - viii. The term of supervision is scheduled to terminate is less than 90 days; or
  - ix. The terms of the sentence prohibit alternative sanctioning.

3. **QUALIFYING TECHNICAL VIOLATIONS.** The following technical violations may be addressed through the Alternative Sanctions Program for offenders who were sentenced in Monroe County, Florida, per Florida Statute 948.06(b)(c).

- a. **Low-Risk Violations**
  - i. Positive drug or alcohol test result;
  - ii. Failure to report to the probation office;
  - iii. Failure to report a change in address or other required information;
  - iv. Failure to attend a required class, treatment or counseling session, or meeting;
  - v. Failure to submit to a drug or alcohol test;
  - vi. A violation of curfew;
  - vii. Failure to meet a monthly quota on any required probation condition, including, but not limited to, making restitution payments, paying court costs or completing community service hours;
  - viii. Leaving the county without permission;
  - ix. Failure to report a change in employment;
  - x. Associating with a person engaged in criminal activity.

- b. Moderate-Risk Violations
  - i. A low-risk violation as identified in 3(a) above when committed by an offender on community control;
  - ii. Failure to remain at an approved residence by an offender on community control;
  - iii. A third low-risk violation as identified in 3(a) above by a probationer within the current term of supervision.

#### **4. APPROVED SANCTIONS.**

- a. For a first or second low-risk violation as defined in section 3(a) above, within the current term of supervision, a probation officer may offer an eligible probationer one or more of the following as an alternative sanction:
  - i. Up to 5 days in the county jail;
  - ii. Up to 50 additional hours of community service;
  - iii. Counseling or treatment;
  - iv. Support group attendance;
  - v. Drug testing;
  - vi. Loss of travel or other privileges;
  - vii. Curfew for up to 30 days;
  - viii. House arrest for up to 30 days;
- b. For a first moderate-risk violation, as defined in section 3(b) above, within the current term of supervision, a probation officer, with a supervisor's approval, may offer an eligible probationer or offender on community control, one or more of the following as an alternative sanction:
  - i. Up to 21 days in the county jail;
  - ii. Curfew for up to 90 days;
  - iii. House arrest for up to 90 days;
  - iv. Electronic monitoring for up to 90 days;
  - v. Residential treatment for up to 90 days;
  - vi. Any other sanction available to a low-risk violation

#### **5. PROCESS FOR REPORTING TECHNICAL VIOLATIONS.**

- a. The probation officer shall inform eligible offenders who have committed a qualifying violation that they may participate in the Alternative Sanctions Program for administrative disposition of the violation. No offender is required to participate in the Alternative Sanctions Program. An offender may elect to waive participation in the program and may opt for a formal violation of probation proceeding in the circuit court. In that case, the probation officer may submit a violation report, affidavit and warrant to the court. The offender may elect to waive or discontinue participation in the Alternative Sanctions 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 Sanctions Program, the offender's prior admission to the technical violation may not be used as evidence in subsequent proceedings.

- b. If the offender elects to participate in the program after receiving written notice of an alleged technical violation and disclosure of the evidence against him or her, admits to committing the technical violation, agrees to accept the administrative sanction recommended by the probation officer and agrees to waive his/her rights associated with a formal violation hearing to modify his/her sentence, the probation officer will prepare an "Alternative Sanctioning Program Technical Violation Notification and Offender's Waiver of Formal VOP/VOCC Hearing, Admission of Violation and Acceptance of Sanctions" form, attached hereto as Attachment A, 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 above in section 4(a)(b).

Offenders agreeing to participate in the Alternative Sanctions Program agree to waive the right to:

- i. Be represented by legal counsel
- ii. Require the state to prove his/her guilt before a neutral and detached hearing body
- iii. Subpoena witnesses and present to a judge evidence in his/her defense
- iv. Confront and cross-examine adverse witnesses
- v. Receive a written statement from a judge as to the evidence relied on and the reasons for the sanctions imposed.


If the offender agrees to participate in the Alternative Sanctions Program, he/she will sign the Alternative Sanctioning Program Technical Violation Notification and Offender's Waiver of Formal VOP/VOCC Hearing, Admission of Violation and Acceptance of Sanctions form, which will be submitted to the court once the probation officer and supervisor sign and date the form.

- c. The judge shall review the Alternative Sanctioning Program Technical Violation Notification and Offender's Waiver of Formal VOP/VOCC Hearing, Admission of Violation and Acceptance of Sanctions form 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 and enter an order, attached hereto as Attachment B. If the judge does not agree with the particular sanction recommended by the probation officer or does not agree that the technical violation should be addressed through the Alternative Sanctions Program, the judge shall reflect further instructions on the order.
- d. Upon court approval, the probation officer will instruct the offender on the sanction imposed by the court and instruct the offender to take actions necessary to ensure the sanction is executed immediately. Failure to complete the imposed sanction within 90 days after imposition or within the timeframe specified, may result in a violation report, affidavit and warrant being submitted to the court.

6. **ADMINISTRATION.** The Alternative Sanctions Program shall be administered by the Sixteenth Judicial Circuit and the Florida Department of Corrections.

7. **EFFECTIVE DATE.** This Administrative Order shall be effective upon signing.

**DONE AND ORDERED** at Key West, Monroe County, Florida this 17<sup>th</sup> day of December, 2019.

  
\_\_\_\_\_  
Honorable Mark H. Jones  
Chief Judge

STATE OF FLORIDA

IN THE CIRCUIT COURT OF THE 16<sup>TH</sup>  
JUDICIAL CIRCUIT OF THE STATE OF  
FLORIDA IN AND FOR MONROE COUNTY

V

Case No.:

\_\_\_\_\_  
Defendant

**ALTERNATIVE SANCTIONS PROGRAM  
TECHNICAL VIOLATION NOTIFICATION**

Original Charge: \_\_\_\_\_

Term of Supervision: \_\_\_\_\_ to \_\_\_\_\_

Offender Eligible:

Date of Violation(s): \_\_\_\_\_  First or  Second Violation

**Technical violation that occurred:** \_\_\_\_\_

**Sanctions/consequence to be imposed in the discretion of the Court:**  
\_\_\_\_\_  
\_\_\_\_\_

**OFFENDER'S WAIVER OF FORMAL VOP/VOCC HEARING,  
ADMISSION OF VIOLATION, AND ACCEPTANCE OF SANCTIONS**

By signing below I understand that I have the right to a formal violation of probation/community control hearing before the Court; however, I am agreeing to waive this right along with waiving the following rights to:

- be represented by legal counsel,
- subpoena and present witnesses and evidence in my defense and to present any defense I might have to the judge,
- require a written statement from a factfinder as to the evidence relied on and the reasons for the sanction imposed,
- see and hear witnesses testify or confront witnesses against me, and
- require the State of Florida to prove my guilt before a neutral and detached hearing body.

I also acknowledge that I am aware of the right to contest and appeal any order entered by the Court modifying my sentence, and hereby waive this right to appeal all matters except the legality of my sentence. No one has coerced me, pressured me, made any threats against me, or promised me anything to convince me to give up these rights.

I am agreeing to voluntarily participate in the Alternative Sanctions Program and understand I can discontinue participation in the Alternative Sanctions Program at any time before the issuance of the court order imposing the recommended sanction. I am admitting to the technical violation(s) of probation/community control listed above with the understanding that I will be required to complete the additional sanction(s) listed above, as part of my probation/community control.

I further understand that if I fail to complete the additional sanction(s) within the time specified, a formal violation of probation/community control action will be forwarded to the court and this form may be introduced into evidence at a subsequent hearing. I understand that if the court determines I have violated my probation/community control, I may be sentenced as authorized by law.

I understand the court reserves the right to accept or reject my request to participate in the Alternative Sanctions Program.

\_\_\_\_\_  
Offender Signature/ Date

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

\_\_\_\_\_  
Typed/Printed Name

\_\_\_\_\_  
Typed/Printed Name & Telephone Number

\_\_\_\_\_  
Supervisor Signature/ Date

Original: Clerk of Court  
Copies: Offender file  
Offender  
Defense Attorney  
State Attorney

STATE OF FLORIDA

IN THE CIRCUIT COURT OF THE 16<sup>TH</sup>  
JUDICIAL CIRCUIT OF THE STATE OF  
FLORIDA IN AND FOR MONROE COUNTY

V

Case No.:

\_\_\_\_\_  
Defendant

**ORDER  
ALTERNATIVE SANCTIONS PROGRAM**

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

The Court has reviewed the Alternative Sanctions Program Notification of Technical Violation and Offender's Waiver of Formal VOP/VOCC Hearing, Admission of Violation and Acceptance of Sanctions form, a copy of which is attached, and approves the following sanctions:

**IT IS ORDERED:**

1. As a condition of the defendant's supervision, the defendant shall complete the sanction selected.
2. The Department of Corrections is directed to forward a violation of probation/community control report 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 Sanctions Program and directs the Department of Corrections to submit a Violation Report, Affidavit and Warrant to address this alleged violation.

**DONE AND ORDERED** at \_\_\_\_\_, Monroe County, Florida this \_\_\_\_\_  
day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
CIRCUIT JUDGE/ACTING CIRCUIT JUDGE

Attachment B