

**IN THE SECOND JUDICIAL CIRCUIT
OF FLORIDA**

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER 2020-01

**IN RE: ALTERNATIVE SANCTIONING PROGRAM FOR CERTAIN TECHNICAL
VIOLATIONS OF PROBATION OR COMMUNITY CONTROL**

WHEREAS, Chapter 2019-167 section 63, at 89, Laws of Florida, The Florida Legislature mandated that each judicial circuit establish an alternative sanctioning program which may be used in lieu of an affidavit of violation and warrant when certain technical violations of probation or community control are alleged. The Legislature also authorized the chief judge to define additional sanctions or eligibility criteria for the program and to specify the process for reporting technical violations; and

WHEREAS, Article V, section 2(d), Florida Constitution, directs the chief judge shall be responsible for administrative supervision of the circuit courts and county courts in the circuit, it is therefore **ORDERED**:

I. ALTERNATIVE SANCTIONING PROGRAM, hereinafter referred to as the "Program", is created in the Second Judicial Circuit as required by section 948.06(9), Florida Statutes (2019). The Program provides the Court and the Florida Department of Corrections (DOC) an alternative, administrative method of reporting and resolving certain technical violations in lieu of submitting a violation of probation affidavit and warrant to the court. However, as provided in section 948.06(9)(i), the presiding judge has the discretion to reject the recommended alternative sanctions and require the submission of an affidavit of violation and warrant.

II. ELIGIBILITY CRITERIA.

- A. To be eligible for the Program, offenders must have been placed on probation or community control under the supervision of the DOC by a judge of the Second Judicial Circuit, have strong community ties, have a stable residence in Florida, and not be disqualified pursuant to section 948.06(9)(d)9. Offenders who are eligible for the Program include probation offenders, drug offenders, and community control supervision offenders. The Program only applies to offenders who are alleged to have committed certain technical violations defined as "low risk" (section 948.06(9)(b)) or "moderate risk" (section 948.06(9)(c)).
- B. The threat an offender poses to public safety is the most important factor in determining eligibility. A probationer or offender on community control is not eligible for the Program if:

1. He or she is a violent felony offender of special concern;
2. He or she is a sex offender;
3. The violation is the alleged commission of a felony, misdemeanor, or criminal traffic offense;
4. The violation is absconding;
5. The violation is of a stay-away order or no-contact order;
6. The violation is not identified as "low risk" or "moderate risk" as defined in 948.06 or by administrative order;
7. He or she has a prior "moderate risk" violation during the current term of supervision;
8. He or she has three prior "low risk" level violations during the same term of supervision;
9. The terms of the sentence prohibit alternative sanctioning;
10. The term of supervision is scheduled to terminate in fewer than 90 days. The probation officer shall specifically note for the judge's review if the offender's supervision is scheduled to terminate in fewer than 90 days.

III. QUALIFYING TECHNICAL VIOLATIONS AND APPROVED SANCTIONS.

- A. For a first or second "low-risk" violation as defined in 948.06(9)(b) within the current term of supervision, a probation officer may offer an eligible probationer one or more of the following as an alternative sanction:

1. Up to 5 days in the county jail.
2. Up to 50 additional community service hours.
3. Counseling or treatment.
4. Support group attendance.
5. Drug testing.
6. Loss of travel or other privileges.
7. Curfew for up to 30 days.
8. House arrest for up to 30 days.
9. Daily call-in to probation office for up to 30 days.
10. Weekly reporting for up to six weeks.
11. Reporting twice monthly for up to 60 days.
12. Electronic monitoring or GPS for up to 90 days.
13. Attend and complete a cognitive behavioral program.
14. Until gainfully employed, reporting weekly to the probation office and submission of documentation of all job search activity, such as where employment was sought, dates and times applications were submitted, job interviews, and documentation of on-line employment searches.
15. Until gainfully employed, reporting daily to the probation office and submission of documentation of all job search activity, such as where employment was sought, dates and times applications were submitted, job interviews, and documentation of on-line employment searches.

B. For a first “moderate-risk” violation as defined in 948.06(9)(c) 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:

1. Up to 21 days in the county jail.
2. Curfew for up to 90 days.
3. House arrest for up to 90 days.
4. Electronic monitoring for up to 90 days.
5. Residential treatment for up to 90 days.
6. Daily call-in for up to 60 days.
7. Weekly reporting for up to 12 weeks.
8. Reporting twice monthly for up to 120 days.
9. GPS for up to 90 days.
10. Any other sanction available for a low-risk violation.

IV. ALTERNATIVE SANCTIONING PROGRAM PROCESS FOR REPORTING TECHNICAL VIOLATIONS.

A. The probation or community control officer may inform an offender alleged to have committed a “low” or “moderate” risk violation that he or she may participate in the Program. No offender is required to participate in the Program. Offenders may instead opt for a formal violation of probation or community control proceeding in Circuit Court. The offender’s participation in the Program is voluntary. The offender may elect to waive or discontinue participation in the Program at any time before the issuance of a court order imposing the recommended sanction. If the offender elects to discontinue participation in the Program, the offender’s prior admission to the technical violation, made for the purpose of qualifying for the Program, may not be used as evidence in subsequent proceedings.

B. If the offender admits the violation, agrees to accept the administrative sanction recommended by the probation officer, and agrees to waive all rights associated with a formal violation hearing, 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” (DC3-2027) form (“waiver”), which will provide details of the circumstances of the alleged technical violation and the probation officer’s recommended sanction. Offenders agreeing to participate in the Program must waive the right to:

1. Be represented by legal counsel;
2. Require the State to prove the violation by the greater weight of the evidence;
3. Subpoena witnesses and present evidence in his or her defense;
4. Confront and cross-examine witnesses; and

- 5. Receive a written statement from a fact-finder as to the evidence relied on and the reasons for the sanctions imposed.

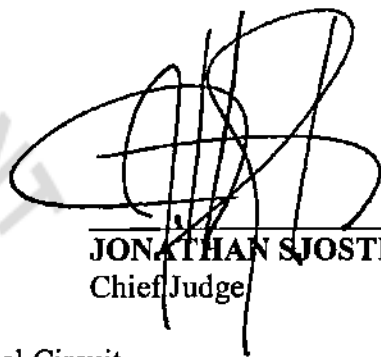
Offenders agreeing to participate in the Program must sign the waiver which will be submitted to the Court.

- C. The judge shall review the waiver. If the judge agrees that the technical violation should be addressed via the Program and agrees with the recommended sanction(s), the judge will sign the "Order - Alternative Sanctions Program." If the judge does not agree with the sanction recommended by the officer or does not agree that the technical violation should be addressed via the Program, the judge shall reflect further instructions on the Order. Nothing in this order shall be interpreted to override the judge's discretion to disallow the offender's participation in the Alternative Sanctioning Program and to require the probation officer to prepare and submit an affidavit of violation and warrant.
- 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 as instructed will result in a violation report, affidavit and warrant being submitted to the court.

V. ADMINISTRATION. The Alternative Sanctioning Program shall be administered by the Circuit Court and the Florida Department of Corrections.

VI. EFFECTIVE DATE. This order shall take effect immediately.

DONE and ORDERED in chambers in Tallahassee, Leon County, Florida, this 6th day of February, 2020.



JONATHAN SJOSTROM
Chief Judge

Copies furnished to:
 All Circuit and County Judges, Second Judicial Circuit
 All Clerks of the Court, Second Judicial Circuit
 State Attorney, Second Judicial Circuit
 Public Defender, Second Judicial Circuit
 Florida Department of Corrections
 Office of Court Administration, Second Judicial Circuit