

**ORDER GOVERNING ALTERNATIVE SANCTIONS PROGRAM**

**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**, pursuant to the chief judge's constitutional and statutory responsibility for administrative supervision of the courts within the circuit and to create and maintain an organization capable of effecting the efficient, prompt, and proper administration of justice for the citizens of this State, the chief judge is required to exercise direction, *see* Fla. R. Jud. Admin. 2.215(b)(2), (b)(3); and

**WHEREAS**, there are 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 both expensive and nonproductive; and

**WHEREAS**, there is research to support 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 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 many 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 the offender an alternative to a violation hearing in court, which will allow the offender to remain engaged in employment, school, treatment, etc. and allow the offender to take immediate responsibility for their actions and comply with the consequences of those actions; and

**WHEREAS**, 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 Fla.;

**NOW, THEREFORE, I**, Frederick J. Lauten, in order to facilitate the efficient operation of the administration of justice, and pursuant to the authority vested in me as Chief Judge of the Ninth Judicial Circuit of Florida under Florida Rule of Judicial Administration 2.215, hereby order the following, **effective immediately**, to continue until further order and superseding any provisions in prior Administrative Orders which may be inconsistent:

1. **ALTERNATIVE SANCTIONING PROGRAM.** There is created in the Ninth Judicial Circuit a program that shall be known as the Alternative Sanctioning Program in accordance with section 948.06(1)(h), Florida Statutes. 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.

2. **ELIGIBILITY CRITERIA.** To be eligible for the program, offenders must have been placed on probation or community control under the supervision of the Department of Corrections by a judge in the Ninth Judicial Circuit, have stable community ties, and have a stable residence in either Orange or Osceola County, Florida. Offenders who are eligible for the

program include probation offenders, drug offenders, and community control supervision offenders. The program only applies to offenders who have committed certain technical violations addressed in the Alternative Sanctioning Program Violation/Sanction Matrix included 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 have new law violations, are absconders, or have violated a “no contact” condition of supervision are not eligible for the program. No offender who has three or more previous violations is eligible for the program.

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

The following matrix lists the specific technical violations that may be addressed through the Alternative Sanctioning Program process for offenders who were sentenced in the Ninth Judicial Circuit. 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**

<b>VIOLATION</b>	<b>APPROVED LIST OF SANCTIONS</b>
Condition (1): Reported late; failed to report as instructed.	<ol style="list-style-type: none"> <li>1. Weekly call in for 6 weeks.</li> <li>2. Twice a month reporting for 3 months.</li> <li>3. Weekly reporting for 6 weeks.</li> <li>4. Attend a Lifeskills/Career Readiness class as directed by DOC.</li> <li>5. Thinking for Change program through DOC.</li> <li>6. Participate in 3 sessions with DOC Employment Specialist.</li> </ol>
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"> <li>1. Weekly call in for 6 weeks.</li> <li>2. Twice a month reporting for 3 months.</li> <li>3. Weekly reporting for 6 weeks.</li> <li>4. Attend a Lifeskills class as directed by DOC.</li> <li>5. Thinking for Change program through DOC.</li> <li>6. Participate in 3 sessions with DOC Employment Specialist.</li> </ol>

Condition (3): Failed to request permission prior to leaving the county.	<ol style="list-style-type: none"> <li>1. Weekly call in for 6 weeks.</li> <li>2. Twice a month reporting for 60 days.</li> <li>3. Weekly reporting for 6 weeks at discretion of PO.</li> </ol>
Condition (6): Found to be associating with person(s) engaged in criminal activity.	<ol style="list-style-type: none"> <li>1. Curfew from 8 p.m. to 6 a.m. for 90 days (can be modified by PO for treatment or work purposes).</li> <li>2. Weekly call in for 6 weeks.</li> <li>3. 25 hours public service work.</li> <li>4. Thinking for Change class through DOC.</li> <li>5. Attend a Lifeskills/Career Readiness class as directed by DOC.</li> <li>6. Attend the GED program if deemed appropriate through PO.</li> <li>7. Participate in 3 sessions with DOC Employment Specialist.</li> </ol>
Condition (7): Positive drug test for non-prescribed drugs (first occurrence).	<ol style="list-style-type: none"> <li>1. Drug evaluation and successfully complete treatment determined necessary.</li> <li>2. Increase level of treatment program up to and including residential.</li> <li>3. Curfew from 8 p.m. to 6 a.m. for 90 days (can be modified by PO for treatment or work purposes).</li> <li>4. Thinking for Change class through DOC.</li> <li>5. Attend a Lifeskills/Career Readiness class as directed by DOC.</li> <li>6. Attend 90 days NA/AA meetings.</li> </ol>
Condition (7): Positive drug test for non-prescribed drugs (second occurrence).	<ol style="list-style-type: none"> <li>1. Drug evaluation and successfully complete treatment determined necessary.</li> <li>2. Increase level of treatment program up to and including residential.</li> <li>3. Curfew from 8 p.m. to 6 a.m. for 90 days (can be modified by PO for treatment or work purposes).</li> <li>4. Thinking for Change class through DOC.</li> <li>5. Attend a Lifeskills/Career Readiness class as directed by DOC.</li> <li>6. Attend 90 days NA/AA meetings.</li> </ol>
Condition (8): Failure to maintain employment.	<ol style="list-style-type: none"> <li>1. Weekly reporting with Job Search logs until employed.</li> <li>2. Daily reporting with job search logs until employed.</li> <li>3. Curfew from 8 p.m. to 6 a.m. for 90 days (can be modified by PO for treatment or work purposes).</li> <li>4. Attend 3 sessions with the DOC Employment Specialist.</li> <li>5. Thinking for Change class through DOC.</li> <li>6. Participation in the GED program through DOC.</li> <li>7. Attend a Lifeskills/Career Readiness class as directed by DOC.</li> </ol>
Condition (9): Failure to answer inquiries truthfully (depending on nature of question, response, and reason for being untruthful, consequence will vary).	<ol style="list-style-type: none"> <li>1. Weekly call-in for 4 weeks.</li> <li>2. 8 hours of community service work.</li> </ol>

<p>Condition (9): Failure to comply with officer's instructions (depending on nature of instruction and reason for not complying, consequence will vary).</p>	<ol style="list-style-type: none"> <li>1. Weekly call in for 4 weeks.</li> <li>2. 8 hours Community service work.</li> <li>3. Thinking for Change class through DOC.</li> <li>4. Attend a Lifeskills/Career Readiness class as directed by DOC.</li> <li>5. If employment related, participate in three sessions with DOC Employment Specialist.</li> </ol>
<p>Condition (10): Failure to pay restitution or court costs.</p>	<ol style="list-style-type: none"> <li>1. If unemployed-daily job search.</li> <li>2. If employed-monthly budgeting.</li> <li>3. Curfew from 8 p.m. to 6 a.m. (can be modified by PO for treatment or work purposes).</li> <li>4. Weekly call in until monetary obligations are current.</li> <li>5. Extend probation to auto term upon completion of all conditions.</li> <li>6. Attend Lifeskills/Career Readiness class as directed by DOC.</li> <li>7. Attend and participate in three sessions with DOC Employment Specialist.</li> </ol>
<p>Condition (11): Failure to submit to random testing as directed.</p>	<ol style="list-style-type: none"> <li>1. Weekly reporting by 11 am.</li> <li>2. Reporting 3 times per week by 11 am.</li> <li>3. Curfew from 8 p.m. until 6 a.m. for 90 days (can be modified by PO for treatment or work purposes).</li> <li>4. Attend Lifeskills/Career Readiness class as directed by DOC.</li> <li>5. Substance abuse evaluation and treatment determined necessary.</li> <li>6. Thinking for Change class through DOC.</li> <li>7. Attend 90 NA/AA meetings.</li> </ol>
<p>Special Condition (1): Failure to attend treatment evaluation or treatment session as scheduled.</p>	<ol style="list-style-type: none"> <li>1. Curfew from 8 p.m. to 6 a.m. until evaluation is completed.</li> <li>2. Weekly reporting until evaluation is completed.</li> <li>3. Daily call in until evaluation is completed.</li> <li>4. Thinking for Change class through DOC.</li> </ol>
<p>Special Condition (8): Failure to complete community service hours as instructed.</p>	<ol style="list-style-type: none"> <li>1. Weekly reporting until community service hours completed/current, if employed.</li> <li>2. Enrollment in Thinking for Change class through DOC.</li> </ol>
<p>Special Condition (9): Failure to remain at residence during curfew period.</p>	<ol style="list-style-type: none"> <li>1. Weekly reporting for three months.</li> <li>2. Electronic Monitoring for 30 days.</li> </ol>
<p>Community Control Condition (16): Failure to maintain approved schedule – unapproved absence from required location (negligence in getting home late, stopping at store on way home without permission).</p>	<ol style="list-style-type: none"> <li>1. Electronic Monitoring for 30 days.</li> <li>2. 10 Hours Community Service work.</li> <li>3. 20 Hours Community Service work.</li> <li>4. Thinking for Change class through DOC.</li> <li>5. Attend Lifeskills/Career Readiness class as directed by DOC.</li> </ol>

#### 4. ALTERNATIVE SANCTIONING PROGRAM PROCESS.

A. The probation or community control officer may inform offenders who have committed violations enumerated in section 3 of this Order that they may participate in the Alternative Sanctioning Program for administrative disposition of the violation. No offender is required to participate in the Alternative Sanctioning Program and may instead opt for a formal violation of probation or community control proceeding 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 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 their rights associated with a formal violation hearing to modify their 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" (DC3-2027) form, 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. Offenders agreeing to participate in the Alternative Sanctioning Program agree to waive the right to:

1. Be represented by legal counsel,
2. Require the state to prove their guilt before a neutral and detached hearing body,
3. Subpoena witnesses and present to a judge evidence in their 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.

If the offender agrees to participate in the Alternative Sanctioning Program, they will sign the second section of the DC3-2027 form titled “Offender’s Waiver of Formal VOP/VOCC Hearing, Admission of Violation, and Acceptance of Sanctions,” which will be submitted to the court once the probation officer and supervisor signs and dates 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” (DC3-2027) form submitted and, if the judge agrees that the technical violation should be addressed via the Alternative Sanctioning Program and agrees with the recommended sanction, the judge will sign the “Order - Alternative Sanctions Program.” If the judge does not agree with the particular sanction recommended by the officer or does not agree that the technical violation should be addressed via the Alternative Sanctioning 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 as instructed will result in a violation report, affidavit and warrant being submitted to the court.

5. **ADMINISTRATION.** The Alternative Sanctioning Program shall be administered by the Ninth Judicial Circuit and the Florida Department of Corrections.

**DONE AND ORDERED** at Orlando, Florida, this 12<sup>th</sup> day of February, 2018.

\_\_\_\_\_/s/\_\_\_\_\_  
Frederick J. Lauten  
Chief Judge

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