

**THE ELEVENTH JUDICIAL CIRCUIT
MIAMI-DADE COUNTY, FLORIDA**

**CASE NO. 10-1
(Court Administration)**

**ADMINISTRATIVE ORDER
NO. 05-08-A2
(Amending AO No. 05-08,
as amended by AO No. 5-08 A1)**

**IN RE: EXPANSION OF JUVENILE
DRUG COURT**

WHEREAS, in view of the success of the Juvenile Drug Court in the Eleventh Judicial Circuit of Florida for eligible post-adjudication drug cases in Miami-Dade County, pursuant to Administrative Order No. 05-08-A1, entered on May 16, 2005 with an effective date of January 1, 2006, Juvenile Drug Court was to be expanded to include eligible pre-adjudication drug cases in an effort to reduce recidivism by emphasizing treatment and rehabilitation as an alternative to incarceration, while also requiring offender accountability; and

WHEREAS, notwithstanding the entry of AO No. 05-08 A1, such expansion was not effectuated pending clarification of certain eligibility criteria and other matters; and

WHEREAS, the State Attorney's Office, in collaboration with the Office of the Public Defender and Regional Counsel (collectively, "Defense Counsel"), have agreed that the procedures set forth herein address their concerns;

NOW, THEREFORE, pursuant to the authority vested in me as Chief Judge of the Eleventh Judicial Circuit of Florida, under Rule 2.215 of the Florida Rules of Judicial Administration, it is hereby ORDERED that Administrative Order No. 05-08, as amended by Administrative Order No. 5-08 A1, is further amended as hereinafter set forth:

A. Eligible Pre-Adjudication Cases

1. Pursuant to Section 985.345, Fla. Stat. (2007), a juvenile who is charged by petition under Chapter 893, Fla. Stat., with a felony of the second or third degree for purchase or possession of a controlled substance, tampering with evidence; solicitation for purchase of a controlled substance; or obtaining a prescription by fraud, and who has not previously been adjudicated for a felony is eligible for voluntary admission into a delinquency pretrial substance abuse education and treatment intervention program, including a treatment-based drug court program

established pursuant to s. 397.334, approved by the chief judge or alternative sanctions coordinator of the circuit to the extent that funded programs are available, for a period based on the program requirements and the treatment services are suitable for the offender, upon motion of either party or the court's own motion.

2. Additionally, if the State Attorney believes that the facts and circumstances of the case suggest the youth's involvement in the dealing and selling of controlled substances, the court shall hold a preadmission hearing after a petition has been filed, and within 35 days of the initial sounding on the petition, but prior to the day of the adjudicatory hearing. If the State Attorney establishes by a preponderance of the evidence at such hearing that the youth was involved in the dealing and selling of controlled substances, the youth is ineligible and the court shall deny the youth's admission into Juvenile Drug Court.

B. Ineligible Pre-Adjudication Cases

The following offenses are ineligible and do not meet the criteria for pre-adjudication participation in Juvenile Drug Court:

1. Additional felony charges;
2. Sale of, possession with intent to sell a controlled substance;
3. Firearm charges;
4. Pending crimes of violence, on a separate count contained in the same petition, without victim consent to enter program;
5. Concurrent misdemeanor charge in same petition involving restitution. However, such charge will not make a child ineligible as long as the victim and child/parent/guardian agree on the amount and the child/parent/guardian has the ability to pay restitution within period of drug court; and
6. Youths who were previously referred to any diversion program on the same case are presumptively not eligible for pre-adjudicatory Juvenile Drug Court. The Court shall determine the eligibility upon review of facts and circumstances of the case.

C. Acceptance: Pre-Adjudicatory Drug Court

After a petition has been filed, and within 35 days of the initial sounding on the petition, but prior to the day of the adjudicatory hearing, and after the Staffing Team determines a juvenile is eligible to participate in Juvenile Drug Court, the

Defense Counsel then meets with his/her client to discuss whether or not the juvenile wishes to participate in Juvenile Drug Court. If the juvenile wishes to participate, the case is referred to the Juvenile Drug Court Judge for acceptance into the Juvenile Drug Court.

D. Pre and Post Adjudication Process

1. Placement Procedure: The procedure for placement of eligible defendants into Juvenile Drug Court is as follows:
 - a. **Referral:** A referral can be made to Juvenile Drug Court by Judges, Defense Counsels, Assistant State Attorneys, Juvenile Probation Officers, and others.
 - b. **Screening:** Most of the Juvenile Drug Court participants are initially screened by the Juvenile Assessment Center ("JAC"). If the JAC, or other service provider, after testing the juvenile, determines that the juvenile has a substance abuse problem, the JAC will classify the juvenile as mild, moderate or severe drug abuser.
 - c. **Eligibility Determination:** After a juvenile is found to be a drug abuser by the JAC or other service provider, then the staffing team consisting of members from the Administrative Office of the Courts, Defense Counsels, the Office of the State Attorney, the Department of Juvenile Justice, Miami-Dade Public School System, and various treatment providers (collectively, "Staffing Team"), will meet once a week to screen new filings to determine Juvenile Drug Court eligibility.
 - d. **Acceptance:** After the Staffing Team determines a juvenile is eligible to participate in Juvenile Drug Court, the Defense Counsel then meets with his/her client to discuss whether or not the juvenile wishes to participate in Juvenile Drug Court. If the juvenile wishes to participate, the case is referred to the Juvenile Drug Court Judge for acceptance into the Juvenile Drug Court.
 - i. **Acceptance for Post-Adjudicatory Drug Court.** After a petition has been filed, but prior to disposition, and after the Staffing Team determines a juvenile is eligible to participate in Juvenile Drug Court, the Defense Counsel then meets with his/her client to discuss whether or not the juvenile wishes to participate in Juvenile Drug Court. If the juvenile wishes to participate, the case is referred to the Juvenile Drug Court Judge for acceptance into the Juvenile Drug Court.

- ii. **Acceptance for Pre-Adjudicatory Drug Court:** Please refer to paragraph C hereinabove.
2. Once the juvenile is accepted into Juvenile Drug Court, the juvenile is monitored by the Staffing Team on a weekly basis. If the Staffing Team determines that Juvenile Drug Court is no longer a viable option for the juvenile or the juvenile drops out of Juvenile Drug Court, the Juvenile Drug Court Judge will refer the case back to the original delinquency division.
3. As provided in Section 985.345 (3), Fla. Stat., at the end of the delinquency pretrial intervention period, the court shall consider recommendation of the state attorney and the program administrator as to disposition of the pending charges. The court shall determine, by written findings, whether the child has successfully completed the delinquency pretrial intervention program. Notwithstanding the coordinated strategy developed by a drug court team pursuant to s. 397.334 (3), if the court finds that the child has not successfully completed the delinquency pretrial intervention program, the court may order the child to continue in an education, treatment, or urine monitoring program if resources and funding are available or order that the charges revert to normal channels for prosecution. The court may dismiss the charges upon a finding that the child has successfully completed the delinquency pretrial intervention program.

E. Non-eligible Post-Adjudication Cases

Youths who have been charged with the following offenses will not be eligible for post-adjudicatory drug court:

1. Firearm offenses;
2. Sale of drug offenses including possession with intent to sell a controlled substance;
3. Violent offenses except with SAO approval;
4. Sexual battery offenses;
5. Those whose current offense is likely to merit commitment or direct file charges;
6. Those who live outside of Juvenile Drug Court boundaries;
7. Youths who are 18 years or older;

8. Youths with severe mental illness, retardation, or other severe disabilities that would likely result in the inability to successfully complete the drug court conditions;
9. Youths who meet the criteria for long term residential services; and
10. If the State Attorney believes that the facts and circumstances of the case suggest the youth'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 the evidence at such hearing that the youth was involved in the dealing and selling of controlled substances, the youth is ineligible and the court shall deny the youth's admission into Juvenile Drug Court.

Except as amended herein, Administrative Order No. 05-08, as amended by Administrative Order No. 05-08-A1 remains in full force and effect.

This Order shall take effect upon execution and shall remain in effect until further order of the Court

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, this 18th day of May, 2010.

**JOEL H. BROWN, CHIEF JUDGE
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA**