

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

**CASE NO. 21-1
(Court Administration)**

**ADMINISTRATIVE ORDER
NO. 18-02 A1**

**IN RE: AMENDMENT TO
ADMINISTRATIVE ORDER NO. 18-02
ESTABLISHING THE ALTERNATIVE
SANCTIONS PROGRAM**

WHEREAS, the Florida legislature in Chapter 2016-100, Laws of Florida, amended section 948.06, Florida Statutes; and

WHEREAS, section 948.06, Florida Statutes authorizes the Chief Judge of each judicial circuit to establish an alternative sanctioning program; and

WHEREAS, there are many technical violations of probation or community control 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, research supports that recidivism may be reduced by utilizing collaborative efforts among the courts, probation and law enforcement to hold offenders accountable and apply swift and certain sanctions for technical violations of probation or community control; and

WHEREAS, an administrative option for processing certain 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 time required to serve violation warrants for certain technical violations, and reducing jail population for offenders waiting for technical violation hearings;

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**:

1. The Alternative Sanctions Program is hereby created in the Eleventh Judicial Circuit, Miami-Dade County.
2. **Eligibility.** The program is available to any person who is on probation, drug offender probation, or community control, under the supervision of the Department of Corrections, has stable community ties, and has a stable residence in Florida.
 - a. The program is only available to offenders who have committed a technical violation identified in the Alternative Sanctions Program Violation/Sanctions Matrix.
 - b. The following offenders are ineligible for the program:
 - Offenders with three or more prior felony convictions or three previous probation violations in the same case.
 - Offenders who are designated sex offenders.
 - Offenders who qualify as Violent Felony Offenders of Special Concern pursuant to Florida Statutes section 948.06(8)(c), unless the trial judge at the time of imposing the term of probation designated the offender for the program.
 - Offenders who are charged with new law violations, are absconders, or have violated a “no contact” condition of supervision are not 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 Sanctions Program process for offenders who were sentenced in Miami-Dade County, Florida. 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’s offender’s circumstances at the time of the violation.

ALTERNATIVE SANCTIONS PROGRAM VIOLATION/SANCTION MATRIX

VIOLATION	APPROVED LIST OF SANCTIONS
Condition (1): Reported late; failed to report as instructed	• Verbal counseling. • Report 2 times a month for 60 days. • Weekly reporting for 45 days. • Additional 10 hours of community service.

Condition (2): Failed to pay Cost of Supervision (COS)	• Waive arrearage for costs of supervision (if offender has no ability to pay). • Waive costs of supervision (if offender has no ability to pay). • Set up a payment plan (if offender has ability to pay)
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) ***Inapplicable if Offender is on Community Control***	• Verbal counseling. • Report 2 times a month for 60 days. • Weekly reporting for 45 days. • Additional 10 hours of community service.
Condition (3): Failed to request permission prior to leaving the county ***Inapplicable if Offender is on Community Control***	• Verbal counseling. • Report 2 times a month for 60 days. • Weekly reporting for 45 days. • Additional 10 hours of community service.
Condition (6): Found to be associating with person(s) engaged in criminal activity ***Inapplicable if Offender is on Community Control***	• Verbal counseling. • Report 2 times a month for 60 days. • Weekly reporting for 45 days. • Additional 10 hours of community service.
Condition (7): Positive drug test for marijuana (first occurrence)	• Weekly drug testing for eight weeks (to begin 30 days after positive test)
Condition (7): Positive drug test for marijuana (second occurrence)	• Drug evaluation and successfully complete treatment if recommended • Weekly drug testing for 16 weeks (to begin 30 days after positive test)

Condition (8): Failure to maintain employment	• Referral to employment assistance agencies. • Weekly reporting with 20 job search log entries until employed. • Daily reporting with 5 job search log entries until employed.
Condition (9): Failure to answer inquiries truthfully (depending on nature of question, response, and reason for being untruthful, consequence will vary)	• Verbal counseling. • Report 2 times a month for 60 days. • Weekly reporting for 45 days. • Additional 10 hours of community service.
Condition (9): Failure to comply with officer's instructions (depending on nature of instruction and reason for not complying, consequence will vary) ***Inapplicable if Offender is on Community Control***	• Verbal counseling. • Report 2 times a month for 60 days. • Weekly reporting for 45 days. • Additional 10 hours of community service.
Condition (10): Failure to pay restitution	• Extend probation (will auto terminate upon completion of all conditions). This sanction requires filing of Affidavit of Violation, and victim should be notified and allowed to come to hearing if requested. • Referral to employment assistance agencies (if unemployed).
Condition (11): Failure to submit to random testing as directed	• Verbal counseling. • Drug use evaluation and require treatment as necessary. • Modify to drug offender probation. • Increase level of treatment program up to and including residential. • AA/NA 1x per week for 60 days. • Curfew from 8pm to 6am for 30 days (can be modified by probation officer for treatment/work purposes). • Additional 10 hours of community service.

Special Condition (1): Failure to attend treatment evaluation or treatment session as scheduled	1. Verbal counseling. 2. Additional 10 hours of community service. 3. Weekly reporting until offender in compliance.
Special Condition (8): Failure to complete community service hours as instructed	1. Verbal counseling. 2. Additional 10 hours of community service. 3. Weekly reporting until offender in compliance.
Special Condition (9): Failure to remain at residence during curfew period	1. Verbal counseling. 2. Report 2 times a month for 60 days. 3. Weekly reporting for 45 days. 4. Electronic monitoring for up to 90 days. 5. Additional 10 hours of community service.

4. **Alternative Sanctions Process.**

- a. The probation officer shall inform 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 and may opt for a formal violation of proceeding in the Criminal Division of the Circuit Court in Miami-Dade County, Florida.
- b. If the offender admits the violation, agrees to accept the alternative 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" (Attachment A), which will provide details of the circumstances of the technical violation that occurred and the probation officer's recommended sanction(s), based on the sanctions listed in the Alternative Sanctions Program Violation/Sanction Matrix. If the offender agrees to participate in the Alternative Sanctions Program, he/she will sign the section of the form titled "Offender's Waiver of Formal Violation of Probation Hearing, Admission of Violation, and Acceptance of Sanctions." (Attachment A) Once the form is signed and dated by the offender, the probation officer, and the officer's supervisor, the form will be submitted to the Court.

- c. The judge shall review the submitted "Alternative Sanctions Program Technical Violation Notification" form. If the judge agrees that the technical violation should be addressed via the Alternative Sanctions Program and agrees with the recommended sanction(s), the judge will sign the "Order on Alternative Sanctions Program" (Attachment B). If the judge does not agree with the particular sanction(s) recommended by the officer or does not agree that the technical violation should be addressed via 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(s) 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 citing the original condition that was violated.
 - e. Participation in the Alternative Sanctions Program is not considered a conviction for a violation of probation or community control (not a scoreable violation) for purposes of Section VI of the Criminal Punishment Scoresheet.
 - f. The Clerk of Court shall collaborate with the Administrative Office of the Courts to create a unique docket code to track each Alternative Sanctions Order entered for statistical reporting purposes.
5. **Administration.** The Alternative Sanctions Program shall be administered by the Miami-Dade County Circuit Court and the Florida Department of Corrections.

This Administrative Order shall take effect immediately upon execution and shall remain in effect until further order of the Court. Upon execution of this Administrative Order, The Alternative Sanctions Program shall apply to all pending and future cases before the Circuit Court in Miami-Dade County.

DONE AND ORDERED in Chambers at Miami-Dade County, Florida, this 3rd day of June, 2021.

**BERTILA SOTO, CHIEF JUDGE
ELEVENTH JUDICIAL CIRCUIT OF FLORIDA**