

**IN THE CIRCUIT COURT OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY**

ADMINISTRATIVE ORDER NO. 2-76.0

MISDEMEANOR POST ADJUDICATION DRUG COURT PROGRAM PROCEDURES

WHEREAS, The Polk County Misdemeanor Post Adjudication Drug Court Program (hereinafter “Misdemeanor PADC Program”) was created by Administrative Order No. 2-74.0; and

WHEREAS, it is necessary to establish procedures for the Misdemeanor PADC Program; it is therefore,

ORDERED AS FOLLOWS:

The following procedures shall apply to the Misdemeanor PADC Program:

1. Target Population

The Misdemeanor PADC Program judge will preside exclusively over appropriate cases involving non-violent misdemeanant offenders. Defendants may be referred to the Misdemeanor PADC Program at the time of arraignment, or during any stage of the criminal prosecution process. Each participating defendant must be an adult, aged 18 or older and have substance abuse or addiction problems, with no significant history of crimes of violence. Entry into the program may be by new charge or violation of probation, wherein the new charge, the violation, or previous conviction(s) have underlying drug related issues.

All participating defendants must meet the requirements for participation as set forth in Chapter 397.334, Florida Statutes, which defines the eligibility criteria for entry into a post adjudicatory drug court program as a condition of probation or community control. The criteria include, inter alia,

- Assessment of the defendant’s criminal history;
- Substance abuse screening outcomes;
- Amenability to the services of the program;
- Recommendation of the State Attorney and the victim, if any; and
- Defendant’s agreement to enter the program.

Fla. Stat. §397.334(3)(a).

Additionally, Polk County Probation is discharged from the duty of drug screening participants of the Misdemeanor PADC Program, but *may do so at its discretion*. Polk County Probation shall continue supervising the probationer in all other respects relative to the probation

order unrelated to Misdemeanor PADC Program criteria, and may file appropriate violation of probation affidavit(s) as may be appropriate under the premises.

2. Transfer of Defendants

- A. New Charge: A defendant may be offered the Misdemeanor PADC Program at arraignment. If the defendant is not ready to accept the Misdemeanor PADC Program, but wishes to fully consider it, his or her case will be continued over to the Misdemeanor PADC docket. Once before the Misdemeanor PADC Judge, the defendant may:
- i. Plea guilty and be sentenced to probation with the Misdemeanor PADC Program as a condition of probation; or
 - ii. Plea not guilty before the Misdemeanor PADC Judge. Upon entering the not guilty plea, defendant will be scheduled for a hearing before the original court; or
 - iii. Plea before the Misdemeanor PADC Judge to an alternative state offer.
- B. Violation of Probation: A defendant may be offered the Misdemeanor PADC Program at the violation of probation arraignment. If the defendant agrees to enter the Misdemeanor PADC Program as a condition of a new term of probation, then the defendant will admit the probation violation before the Misdemeanor PADC Program Judge. The Misdemeanor PADC Program Judge will then revoke the defendant's probation and give them a new term of probation with the Misdemeanor PADC Program as a condition of the new term. If the defendant violates the new term of probation, a new affidavit of violation of probation would be filed.

3. Screening

In-house addiction counselors will collect and evaluate various client data in psych-social assessments. The data includes but is not limited to presenting problem(s), substance abuse history, relevant history, physical presentation, mental status, biological patterns/medical status, strengths, abilities, preferences, diagnosis, supportive criteria for diagnosis, and other personal demographics.

4. Post Adjudication Drug Court

Once assessed, addiction counselors will develop the therapeutic rationale, treatment plan, and intended clinical outcomes. The Misdemeanor PADC Program will provide participating defendants with intake, orientation, intervention, case management, individual treatment planning, counseling, education, and step-down services. Participating defendants will be afforded crisis intervention and attend a minimum of eight treatment sessions a month including two-hour group sessions weekly, and a minimum of one individual session, as well as multiple random drug screens. The Misdemeanor PADC Program will monitor the progress of

the client in treatment, and also the participant's degree of compliance with the rules and regulations of the Misdemeanor PADC Program. Participants will be subject to scheduled and random drug screens to monitor any alcohol or drug abuse. The program will work to develop participants' cognitive, behavioral, coping, and social skills.

Participating defendants will be enrolled in the program for a minimum period of 6 months as a condition of probation. When the treatment needs of a participating defendant requires additional or adjunctive treatment services, referrals to other service providers will be made.

In the event a defendant violates conditions of the *Post Adjudication Drug Court Contract* or the conditions of the defendant's substance abuse treatment as stipulated in the *Agreement, Orientation, and Rules*, the alleged violation will be treated as an alleged violation of the terms and conditions of treatment. The Misdemeanor PADC Program Team will notify the Judge of the alleged violations, and have the matter set for hearing. At the violation hearing, on being satisfied that the defendant committed the violation(s) alleged by the Misdemeanor PADC Program Team, the Court, at its discretion may take one or more of the following therapeutic actions:

- a. Restore the defendant to the Misdemeanor PADC Program;
- b. Extend the defendant's participation in the Misdemeanor PADC Program;
- c. Impose a special condition of inpatient or residential substance abuse treatment;
- d. Impose additional appropriate special treatment or supervision conditions;
- e. Order the defendant, as a therapeutic consequence, to county jail for a specified period of time;
- f. Remove the defendant from the Misdemeanor PADC Program and refer the defendant's case to the State Attorney for prosecution; and/or
- g. Any other therapeutic consequence recommended by the Misdemeanor PADC Program Team.

The probationer's case may be terminated from the Misdemeanor PADC Program for failure to substantially comply with terms thereof. However, relapse or other traditional violations of the terms of probation will not automatically result in an unsuccessful termination. The Court is aware of the difficulties of establishing and maintaining sobriety, and will work with defendants working to stay sober.

5. Program Completion

At the end of a minimum of six (6) months, or after any extension so ordered, the Misdemeanor PADC Program Team shall report to the Judge the degree to which the defendant has successfully completed the substance abuse intervention and treatment program. The Court

shall then set the matter for a hearing, and notice shall be given by the Misdemeanor PADC Program to the State Attorney, the defendant, and the defendant's attorney-of-record, if any.

At a hearing set by the assigned Judge, the Court shall make findings regarding the defendant's successful completion of the program. If the defendant has not successfully completed the program, the Misdemeanor PADC Program Judge shall recuse themselves and transfer the case back to the original court for sentencing, unless the parties stipulate to the Misdemeanor PADC Program Judge sentencing the defendant. The sentencing court, at its discretion, may take one or more of the following actions:

- a. Restore the defendant to the Misdemeanor PADC Program;
- b. Extend the defendant's participation in the Misdemeanor PADC Program;
- c. Impose a special condition of inpatient or residential substance abuse treatment;
- d. Impose additional appropriate special treatment or supervision conditions;
- e. Order the defendant, as a therapeutic consequence, to county jail for a specified period of time; and/or
- f. Remove the defendant from the Misdemeanor PADC Program and refer the defendant's case to the Department of Correction for the filing of an affidavit of violation of probation.

If the defendant successfully completes the Misdemeanor PADC Program requirements and any other probationary conditions, the sentencing court may withhold adjudication.

6. Effective Date: This administrative order is effective upon signing.

DONE and ORDERED on this 16th day of March, 2010.

J. DAVID LANGFORD
Chief Judge