

IN THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR THE STATE OF FLORIDA
LEE, COLLIER, CHARLOTTE, HENDRY AND GLADES COUNTIES

IN RE: ALTERNATIVE SANCTIONING PROGRAM ADMINISTRATIVE
 FOR FELONY OFFENDERS SERVING ORDER
 A TERM OF STATE PROBATION OR NO. 3.32
 COMMUNITY CONTROL

WHEREAS, there are a substantial number of technical violations of probation or community control that do not involve a new arrest or other serious violation; and

WHEREAS, arresting and incarcerating certain non-violent offenders for minor violations of probation or community control may be both expensive and nonproductive; and

WHEREAS, there is research showing that recidivism may be reduced by utilizing collaborative efforts among the courts, probation departments, and law enforcement agencies to hold offenders accountable by applying swift and well-defined 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 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 offenders an alternative to a violation hearing in court, which will allow offenders to remain engaged in employment, school, treatment, etc. and allow offenders to take immediate responsibility for their actions and comply with the consequences of those actions; and

WHEREAS, the Florida Legislature has recognized the value of an alternative sanctioning program for technical violations of probation and community control by authorizing the chief judge of each judicial circuit, in consultation with the state attorney, the public defender and the Florida Department of Corrections, to establish an alternative sanctioning program in which the Florida Department of Corrections, after receiving court approval, may enforce specified sanctions for certain technical violations of supervision. Section 948.06(1)(h); and

WHEREAS, the Florida Legislature has defined the term "technical violation" to mean "any alleged violation of supervision that is not a new felony offense, misdemeanor offense, or criminal traffic offense;"

It is, by the authority vested in the Chief Judge pursuant to Fla. R. Jud. Admin. 2.215 and section 948.06(1)(h), **ORDERED** as follows:

1. **ALTERNATIVE SANCTIONING PROGRAM.** There is created in the Twentieth Judicial Circuit, which includes Lee, Collier, Charlotte, Hendry, and Glades counties, a program that shall be known as the Alternative Sanctioning Program in accordance with section 948.06(1)(h). The Alternative Sanctioning Program provides the court and the Florida Department of Corrections (the "Department") 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 by a judge in Lee, Collier, Charlotte, Hendry, or Glades county, have stable community ties, and have a stable residence in the county where sentenced. 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 violation addressed in the Alternative Sanctioning Program Violation/Sanction Matrix included herein. 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 Lee, Collier, Charlotte, Hendry, or Glades counties. 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

VIOLATION	APPROVED LIST OF SANCTIONS
Standard Condition (1): Reported late; failure to report as instructed.	<ol style="list-style-type: none"> 1. Weekly call-in for six weeks. 2. Daily call in for 30 days. 3. Report twice a month in person for 60 days.
Standard Condition (3): Failure 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"> 1. Weekly call-in for six weeks. 2. Report twice a month in person for 60 days. 3. Weekly reporting for six weeks.
Standard Condition (3): Failure to request permission prior to leaving the county.	<ol style="list-style-type: none"> 1. Weekly call-in for six weeks. 2. Report twice a month in person for 60 days. 3. Weekly reporting for six weeks.
Standard Condition (6): Found to be associating with person (s) engaged in criminal activity.	<ol style="list-style-type: none"> 1. Curfew from 8pm to 6am for 60 days (can be modified by CPO for treatment/work purpose). 2. 25 hours of Community Service to be completed within 30 days. 3. Enroll and complete Thinking for a Change (T4C) behavior modification program with FDC.

Standard Condition (7): Positive drug test for non-prescribed drugs.	<ol style="list-style-type: none"> 1. Drug evaluation and successful completion of treatment deemed necessary. 2. Increased level of treatment program up to and including residential. 3. Curfew from 8pm to 6am for 60 days (can be modified by CPO for treatment/work purpose).
Standard Condition (8): Failure to maintain employment.	<ol style="list-style-type: none"> 1. Appointment with FDC Employment Specialist within one week. 2. Daily reporting with job search logs until employed. 3. Curfew from 8pm to 6am until employed or enter vocational/educational program.
Condition (11) Failure to submit to random testing as directed.	<ol style="list-style-type: none"> 1. Drug evaluation and successful completion of treatment deemed necessary. 2. Placed in FDC "Colors" program for random drug testing. 3. Report to the probation office by 11am daily for possible drug testing.
Standard Condition (10): Failure to pay monetary obligations as stipulated by the court.	<ol style="list-style-type: none"> 1. Appointment with FDC Employment Specialist within one week. 2. If unemployed, daily job search. 3. If employed, monthly budgeting with PO. 4. If reaching end of supervision, extend probation to auto term upon completion of all conditions.
Special Condition (1): Failure to attend treatment evaluation or treatment.	<ol style="list-style-type: none"> 1. Curfew from 8pm to 6am until evaluation is completed (can be modified by CPO for treatment/work purpose). 2. Weekly reporting until evaluation is completed. 3. Placed in FDC "Colors" program for random drug testing until evaluation is completed.
Special Condition (8): Failure to complete community service hours as instructed.	<ol style="list-style-type: none"> 1. If unemployed, report to the probation office to be assigned to a community service worksite. 2. If employed, convert community service hours into payment at a rate of \$10.00 per hour. 3. Curfew from 8pm to 6am until community service hours are completed (can be modified by CPO for treatment/work purpose).
Special Condition (9): Failure to remain at residence during curfew period.	<ol style="list-style-type: none"> 1. Electronic monitoring for 30 days. 2. Weekly reporting for 30 days. 3. Enroll and complete Thinking for a Change (T4C) behavior modification program with FDC.
Community Control Condition (16): Failure to maintain approved schedule-unapproved absence from required location (example: negligence in getting home late, stopping at an unapproved location on the way home).	<ol style="list-style-type: none"> 1. Electronic Monitoring for 30 days. 2. 10 hours of community service work. 3. 20 hours of community service work. 4. Enroll and complete Thinking for a Change (T4C) behavior modification program with FDC.

4. **ALTERNATIVE SANCTIONING PROGRAM PROCESS FOR REPORTING TECHNICAL VIOLATIONS.**

- A. The probation or community control officer may inform offenders who have committed violations enumerated in section 3 of this administrative 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 the 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.

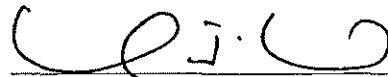
- C. The judge shall review the "Alternative Sanctioning Program Technical Violation Notification and Offender's Waiver of Formal VOP/VOCC Hearing, Admission of Violation and Acceptance of Sanctions" (DC3-2027) form submitted and, if the judge agrees that the technical violation should be addressed via the Alternative Sanctioning Program and agrees with the recommended sanction, the judge will sign the "Order – Alternative Sanctioning Program." If the judge does not agree

with the particular sanction recommended by the probation 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 Circuit Court and the Florida Department of Corrections.
6. **CURRENT LAW.** This Administrative Order comports with current law. However, to the extent that this Administrative Order may later conflict with law, statute or rule, the law, statute or rule shall prevail.
7. **EFFECTIVE DATE.** This Administrative Order shall be effective upon signing.

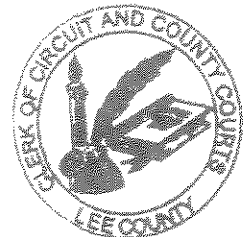
DONE AND ORDERED in chambers in Fort Myers, Lee County, Florida, this 11th
day of July, 2019.



Michael T. McHugh
Chief Judge

History. - New.

I certify this document to be
a true and correct copy of the
record on file in my office,
Linda Doggett, Clerk Circuit/
County Court, Lee County, FL
Dated: 7-16-19
By lmd
Deputy Clerk



FILED 11:17 AM 7/16/2019 LEE COUNTY CLERK OF COURTS