

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

ADMINISTRATIVE ORDER NO. 2-75.0

FELONY POST ADJUDICATION DRUG COURT PROGRAM PROCEDURES

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

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

ORDERED AS FOLLOWS:

The following procedures shall apply to the Felony PADC Program:

1. Target Population

The Felony PADC Program judge will preside exclusively over appropriate cases involving non-violent felony offenders, including defendants arrested for third degree felony offenses under Chapter 810, Florida Statutes, or any other felony offense that is not a forcible felony as defined in §776.08, Florida Statutes. 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.

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;
- Total sentencing points of 52 points or less ;
- Recommendation of the State Attorney and the victim, if any; and
- Defendant’s agreement to enter the program.

Fla. Stat. §397.334(3)(a).

Pursuant to §921.0026 (2) (m), Florida Statutes, offenders with sentencing scores of 52 points or less and offenders with sentencing scores of 52 points or less who have violated community control or probation due to a failed or suspect drug screen are qualified to participate in the Felony PADC Program.

In the event a defendant has violated community control or probation due to a failed or suspect drug screen, the Department of Corrections is discharged from any duty to file an affidavit of violation for the failed or suspect drug screen or for other traditional violations related to substance abuse treatment issues, while the defendant is participating in the Felony PADC

Program. Furthermore, the Department of Corrections is discharged from the duty of drug screening participants of the Felony PADC Program, but *may do so at its discretion*. The Department of Corrections shall continue supervising the probationer in all other respects relative to the probation order unrelated to Felony PADC Program criteria, and may file appropriate violation of probation affidavit(s) as may be appropriate under the premises.

2. Transfer of Defendants

Non-violent defendants committing offenses on or after July 1, 2009, shall be transferred from the Polk Felony Division to the Felony PADC Program, after a plea of guilty or no contest has been accepted and upon the Felony PADC Program assessment and State Attorney's recommendation, where the defendant agrees to enter the Felony PADC Program and scores 52 points or less total sentence points. The Polk Felony VOP Division Court will monitor compliance of the defendant's cases while in the Felony PADC Program until the defendant is no longer active in the program.

3. Referral Process

At the time of arraignment, or during any stage of the criminal prosecution process, defendants will be referred by the Office of the State Attorney and admitted based on established eligibility criteria including sentencing scores of 52 points or less or sentencing scores of 52 points or less with a violation of community control or probation due to a failed or suspect drug screen.

4. 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.

6. Post Adjudication Drug Court

Once assessed, addiction counselors will develop the therapeutic rationale, treatment plan, and intended clinical outcomes. The Felony 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 Felony 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 Felony 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 18 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 Felony PADDC 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 Felony PADDC Program Team, the Court, at its discretion may take one or more of the following actions:

- a. Restore the defendant to the Felony PADDC Program;
- b. Extend the defendant's participation in the Felony PADDC 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 Felony PADDC Program and refer the defendant's case to the State Attorney for prosecution.

The probationer's case may be terminated from the Felony PADDC 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.

7. Program Completion

At the end of a minimum of eighteen (18) months, or after any extension so ordered, the Felony PADDC 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 Felony PADDC 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 Court, at its discretion, may take one or more of the following actions:

- a. Restore the defendant to the Felony PADDC Program;
- b. Extend the defendant's participation in the Felony PADDC 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 Felony PADP Program and refer the defendant's case to the Department of Correction for the filing of an affidavit of violation of probation.

DONE and **ORDERED** on this 4th day of January, 2010.

J. DAVID LANGFORD
Chief Judge