

**IN THE TENTH JUDICIAL CIRCUIT COURT
IN AND FOR POLK COUNTY, FLORIDA**

ADMINISTRATIVE ORDER NO. 2-75.1

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 revise the established 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, both new offenses and violations of probation or community control, involving nonviolent felony offenders that are prison bound, 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, have substance abuse or addiction problems, and not have a significant history of crimes of violence (offenders with prior violent felony convictions are not statutorily prohibited from participating in the Felony PADC Program). All participating defendants must meet the requirements for participation as set forth in §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 for entry into the Felony PADC Program pursuant to §948.01, §948.06; and §948.20, Florida Statutes, includes, inter alia,

- Assessment of the defendant's criminal history by the sentencing court;
- Substance abuse screening outcomes;
- Amenability to the services of the program;
- Total sentencing points of not more than 60 points and not less than 22 points;
- Recommendation of the state attorney and the victim, if any; and
- Defendant's agreement to enter the program.

Fla. Stat. §397.334(3)(a); see also Fla. Stat. §921.0026(2)(m); Fla. Stat. §775.082(10). If the sentencing points are below 44 points, the sentencing court, or an appropriate judge, should

issue a written finding or certification that the Felony PADC Program was offered in lieu of prison.

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 as a condition of probation or community control after: 1) a plea of guilty or no contest has been accepted (with the sentencing court's assessment of defendant's criminal history); 2) the Felony PADC Program completes a screening assessment (including substance abuse screening and defendant's amenability to services of program); 3) the State Attorney's Office makes a recommendation for the defendant's admission into the Felony PADC Program and the victim, if any, agrees; 4) the defendant agrees to enter the Felony PADC Program; and 5) the defendant scores 60 points or less total sentence points. The Polk Felony PADC 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, the Polk County Drug Court staff will identify, evaluate, and refer defendants for eligibility into the Felony PADC Program. Admission into the Felony PADC Program is based on the established eligibility criteria outlined in Section 1, including sentencing scores of 60 points or less for new offenses, or sentencing scores of 60 points or less for violations 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 screening 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. PADC Program Components

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, unless otherwise discharged by the court. When the treatment needs of a participating defendant requires additional or adjunctive treatment services, referrals to other service providers will be made.

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*. However, the Department of Corrections shall continue supervising probationers entering the Felony PADC Program in all other respects relative to the probation order. In the event a defendant violates community control or probation, the Department of Corrections shall file a violation of probation affidavit(s) as appropriate.

7. Violations

- a. Violations of the 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*:

In the event that 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 PADC Program team will notify the PADC 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 PADC Program team, the Court, at its discretion may take one or more of the following actions:

- Restore the defendant to the Felony PADC Program;
- Extend the defendant's participation in the Felony PADC Program;
- Impose a special condition of inpatient or residential substance abuse treatment;
- Modify or rescind existing conditions of probation, impose additional appropriate special treatment conditions, or impose additional supervision conditions;

- Order the defendant, as a therapeutic consequence, to county jail for a specified period of time; and/or
 - Remove the defendant from the Felony PADC Program.
- b. All other violation(s) of the conditions of probation or community control:

In the event that a defendant allegedly violates the conditions of their probation or community control, other than as addressed in Section 7(a) above, the alleged violation shall be heard by the PADC judge. “The judge shall dispose of any such violation, after a hearing on or admission of the violation, as he or she deems appropriate if the resulting sentence or conditions are lawful.” Fla. Stat. §397.334(3)(b). On being satisfied that the defendant committed the violation(s), the PADC judge may, in addition to any lawful sentence, remove the defendant from the Felony PADC Program.

8. Termination from Program

The probationer’s case may be terminated from the Felony 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.

9. Program Completion

At the end of a minimum of eighteen (18) months, or after any extension so ordered, the Felony PADC Program team shall report to the PADC 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 PADC Program to the State Attorney, the defendant, and the defendant’s attorney-of-record, if any. At the hearing, 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 PADC Program;
- b. Extend the defendant’s participation in the Felony 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 Felony PADC Program and refer the

defendant's case to the Department of Correction for the filing of an affidavit of violation of probation.

10. Effective Date: This administrative order shall be effective September, 19, 2016.

DONE and ORDERED on this 13th day of September, 2016.


DONALD G. JACOBSEN
Chief Judge

Copies:

All Circuit and County Judges

Polk County Clerk of Court

State Attorney's Office

Public Defender's Office

Office of Regional Conflict Counsel

Drug Court Manager

Florida Department of Corrections

Polk County Probation

Anne Weeks

Julie Nelson

Bar Mailing

RCC