

**IN AND FOR THE COURTS OF THE FIRST JUDICIAL CIRCUIT  
STATE OF FLORIDA**

**ADMINISTRATIVE ORDER NO. 2012-16  
(Vacates Administrative Orders 2006-08 and 2009-16)**

**IN RE:           PRETRIAL RELEASE PROGRAMS – FLORIDA RULE OF  
CRIMINAL PROCEDURE 3.131.**

**WHEREAS**, the First Judicial Circuit recognizes the benefits of jail alternatives such as pretrial release; and

**WHEREAS**, Administrative Order No. 91-39 established the Pretrial Release Program in Santa Rosa County and Administrative Order No. 87-16 established the Pretrial Release Program in Escambia County, and a pretrial release program is currently operating in Okaloosa County; and

**WHEREAS**, it is recognized that, partly due to changes to the Florida Rules of Criminal Procedure and applicable general law, clarification and amendment of pretrial release procedures throughout the First Judicial Circuit is appropriate;

**IT IS ORDERED** that:

1.       Administrative Orders No. 2006-08 and No. 2009-16 are hereby vacated. To the extent that they conflict with this order, all administrative directives relating to pretrial release are superseded by this order.
2.       Pretrial Release Programs in various counties have been established as a pretrial release option for the Court to utilize in appropriate cases.
3.       The Court authorizes Escambia County Corrections Bureau, Community Corrections Division, to be responsible for the technical supervision and administration of the Pretrial Release Program in Escambia County under the authority of the Chief Judge or his or her designee.
4.       The Court authorizes Santa Rosa County to administer and supervise the Pretrial Release Program in Santa Rosa County.
5.       The Court recognizes the validity of the existing pretrial release program currently operating in Okaloosa County.

6. In the event that appropriate officials determine that a pretrial release program should be implemented in Walton County, the provisions of this order would be applicable to such a program.
7. Pursuant to Florida Rule of Criminal Procedure 3.131, as amended, unless a person is charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption of guilt is great, every person charged with a crime or violation of an ordinance is entitled to pretrial release on reasonable conditions.
8. Pursuant to section 907.041(3)(b), *Florida Statutes*, no person shall be released on nonmonetary conditions under the supervision of a pretrial release service, unless the service certifies to the court that it has investigated or otherwise verified:
  - a. The circumstances of the accused's family, employment, financial resources, character, mental condition, and length of residence in the community;
  - b. The accused's record of convictions, of appearances at court proceedings, of flight to avoid prosecution, or of failure to appear at court proceedings; and
  - c. Other facts necessary to assist the court in its determination of the indigency of the accused and whether she or he should be released under the supervision of the service.
9. In accordance with Fla.R.Crim.P. 3.131(b)(4), persons charged with a dangerous crime, as defined in section 907.041(4)(a), *Florida Statutes*,<sup>1</sup> may not be released on nonmonetary conditions under the supervision of a pretrial release service, unless the service certifies to the court that it has investigated or otherwise verified the conditions set forth in section 907.041(3)(b), *Florida Statutes*. If done in accordance with Fla.R.Crim.P. 3.131(b)(4), a person charged with a dangerous crime may be released on nonmonetary conditions under the supervision of a pretrial release service at a first appearance hearing, if the court finds that it is appropriate to do so. See State v. Raymond, 906 So. 2d 1045 (Fla. 2005).
10. In those cases in which prosecution of any charge of domestic violence is at issue, the State Attorney shall ensure that all the required information is

---

<sup>1</sup> In section 907.041(4)(a), *Florida Statutes*, the Legislature has defined a "dangerous crime" to mean any of the following: arson, aggravated assault, aggravated battery, illegal use of explosives, child abuse or aggravated child abuse, abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult, aircraft piracy, kidnapping, homicide, manslaughter, sexual battery, robbery, carjacking, lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years, sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority, burglary of a dwelling, stalking and aggravated stalking, act of domestic violence as defined in s. 741.28, home invasion robbery, act of terrorism as defined in s. 775.30, manufacturing any substances in violation of chapter 893; and attempting or conspiring to commit any such crime.

provided to the Court prior to the defendant's first appearance pursuant to the provisions of section 741.2901(3), *Florida Statutes*.

11. Pursuant to Fla.R.Crim.P. 3.130(d) and section 948.06(1)(c), *Florida Statutes*: "If a judge finds reasonable grounds to believe that a probationer or an offender has violated... probation or community control in a material respect by committing a new violation of law, the judge may issue a warrant for the arrest of the person." Pursuant to the rule and section 948.06(1)(d), *Florida Statutes*, "At a first appearance hearing for an offender who has been arrested for violating... probation or community control in a material respect by committing a new violation of law the court" shall inform the person of the violation and may order the person to be taken before the court that granted probation or community control if the offender admits the violation.
12. Any offender on felony probation or community control who is subject to the *Anti-Murder Act* as a "violent felony offender of special concern" or other qualifying offender pursuant to section 948.06(4) and (8)(b) and (d), *Florida Statutes*, "shall remain in custody pending the resolution of the probation or community control violation..." except for an offender who is alleged to have committed a violation for failure to pay costs, fines, or restitution.
13. If an offender who is not a "violent felony offender of special concern" or other qualifying offender discussed in § 12, above, does not admit the violation of probation or community control at first appearance hearing, the court may commit and order the offender to be brought before the court that granted probation or community control or may release the offender with or without bail to await further hearing, notwithstanding section 907.041, *Florida Statutes*, relating to pretrial detention and release. In determining whether to require or set the amount of bail, the court may consider whether the offender is more likely than not to receive a prison sanction for the violation.
14. In accordance with Fla.R.Crim.P. 3.130(d), the Court will determine whether placement in the pretrial release program is appropriate and impose the conditions of pretrial release at the first appearance hearing. Fla.R.Crim.P. 3.131(b)(1)(D) provides that, at first appearance, one of the pretrial release conditions to be considered is "placement of the defendant in the custody of a designated person or organization agreeing to supervise the defendant." A pretrial release program qualifies as the designated person or organization referred to in the rule.
15. As a cost incident to the condition of release that the defendant be under supervision of the Pretrial Release Program in Santa Rosa County, all defendants placed in the Pretrial Release Program in Santa Rosa County

shall pay an administrative fee to the Office of Santa Rosa County Probation, unless waived by the Court. The administrative fee amount shall be determined by the Office of Santa Rosa County Probation with written notice of the fee amount and any change to the fee amount provided to the Office of the State Attorney, the Office of the Public Defender, the Circuit's Bar Associations and the Chief Judge.

16. Pretrial release of any accused shall be subject to conditions imposed by the Court. Failure to comply with any or all conditions will result in the submission of a sworn affidavit by the pretrial release program to the Office of the State Attorney and defense counsel whereupon a copy of the sworn affidavit and proposed bond revocation order will be submitted to the assigned judge. Upon receipt of the sworn affidavit and proposed bond revocation order, the assigned judge may sign the order or set the matter for hearing. Further, any failure to comply with any condition(s) may result in the immediate disqualification of the accused from participating in the pretrial release program or other lawful sanction deemed appropriate by the court.

**DONE and ORDERED** in Chambers at Pensacola, Escambia County, Florida

this 1<sup>st</sup> day of June, 2012.

/S/ TERRY D. TERRELL

---

**TERRY D. TERRELL**  
**Chief Judge**

Copies furnished to:

Honorable W. Joel Boles, Administrative Judge, Escambia County  
Honorable John L. Miller, Administrative Judge, Santa Rosa County  
Honorable William F. Stone, Administrative Judge, Okaloosa County  
Honorable Kelvin C. Wells, Administrative Judge, Walton County  
All Judges, First Judicial Circuit  
Honorable Ernie Magaha, Escambia County Clerk of Court  
Honorable Mary Johnson, Santa Rosa County Clerk of Court  
Honorable Don W. Howard, Okaloosa County Clerk of Court  
Honorable Martha Ingle, Walton County Clerk of Court  
Honorable David Morgan, Sheriff of Escambia County  
Honorable Wendell Hall, Sheriff of Santa Rosa County  
Honorable Larry R. Ashley, Sheriff of Okaloosa County  
Honorable Michael A. Adkinson, Jr., Sheriff of Walton County  
Board of County Commissioners, Escambia County

Board of County Commissioners, Santa Rosa County  
Board of County Commissioners, Okaloosa County  
Board of County Commissioners, Walton County  
Escambia County Corrections Bureau  
Santa Rosa County Probation  
Robin Wright, Trial Court Administrator, First Judicial Circuit  
Honorable William Eddins, State Attorney, First Judicial Circuit  
Honorable James Owens, Public Defender, First Judicial Circuit  
For publication in *The Summation*, Escambia/Santa Rosa Bar Association  
For publication in the Okaloosa/Walton Bar Association Newsletter  
For publication at [www.FirstJudicialCircuit.org](http://www.FirstJudicialCircuit.org)