

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

**ADMINISTRATIVE ORDER NO. 2005-27
(Vacates Administrative Order No. 2004-13)**

IN RE: PRETRIAL ISSUES

PRETRIAL INTERVENTION IN ESCAMBIA COUNTY COURT

WHEREAS, the Office of the State Attorney by Memorandum of Understanding consents to the establishment of a misdemeanor pretrial intervention program as outlined in this order, and the interests of justice will be served by establishing a consistent fair process whereby qualified defendants in county criminal court can be afforded an opportunity to participate in a pretrial intervention program, it is therefore

ORDERED that the following programs shall be implemented:

A. MISDEMEANOR PRETRIAL INTERVENTION PROGRAM

1. Any person previously who is charged with a misdemeanor for which there is no statutory prohibition to a deferred prosecution is eligible for release to the pretrial intervention program on approval of the program administrator, state attorney, judge, and victim, provided that (1) the defendant has had the opportunity to consult with counsel and voluntarily agrees to enter the program and (2) the defendant knowingly and intelligently waives his or her right to a speedy trial for the period of the intervention. In no event may a defendant be placed into this program without the approval of the Office of the State Attorney.

2. Neither the defendant nor any member of the defendant's immediate family may contact the victim or any member of the victim's immediate family to acquire the victim's consent which is required for the program.

3. The criminal charges against the defendant shall be continued without final disposition for the period of the intervention. The pretrial intervention will last for a minimum of thirty (30) days and maximum of one (1) year. A defendant's pretrial intervention shall be revoked and the criminal charges shall be resumed at any time the court, program administrator, or state attorney finds that the defendant is not fulfilling his or her obligations in the program or if the public interest so requires.

4. The Court may not appoint the public defender to represent an indigent defendant released to the pretrial intervention program unless the intervention is revoked and the defendant is subject to imprisonment if convicted.

5. The Department of Community Corrections shall be the Program Administrator and shall supervise the pretrial intervention program. The program shall provide appropriate counseling, education, supervision, and medical and psychological treatment as available and appropriate for the defendants in the program.

6. Defendants participating in the pretrial intervention program shall pay an administrative fee to the program administrator of \$255.00 for a battery offense and \$150.00 for all other offenses. This is a one-time fee. Failure to pay this fee shall be grounds for revoking the defendant's participation in the program.

7. Defendants participating in the pretrial intervention program shall pay a state attorney fee of \$50.00 to the program administrator. This is a one-time fee. Failure to pay this fee shall be grounds for revoking the defendant's participation in the program.

8. At the end of the intervention period, the program administrator shall recommend:

a. That the case be returned to prosecution channels if the defendant has performed unsatisfactorily in the program;

b. That the offender needs further supervision; or

c. That prosecution is not necessary.

Based on the administrator's recommendation, the state attorney shall make the final determination as to whether to proceed with prosecution or to dismiss the charges.

9. This program is not intended for defendants who will be better served by participation in the Misdemeanor Pretrial Substance Abuse Education and Treatment Intervention Program or by participation in the Traffic Diversion Program, which are separate and distinct from this program.

10. This program is implemented pursuant to a Memorandum of Understanding signed by the State Attorney and attached hereto, and no defendant may be released into this program over the state's objection.

B. MISDEMEANOR PRETRIAL SUBSTANCE ABUSE EDUCATION AND TREATMENT INTERVENTION PROGRAM

1. The Department of Community Corrections provides an intervention program for defendants facing drug-related charges.

2. The Misdemeanor Pretrial Substance Abuse Education and Treatment Intervention Program is established pursuant to authority granted by the Chief Judge of this circuit and with his approval.

3. The policies and procedures of the Misdemeanor Pretrial Substance Abuse Evaluation and Treatment Intervention Program are governed by §948.16, *Florida Statutes*, and are set out in a separate document prepared by the Department of Community Corrections and incorporated herein by reference.

DONE AND ORDERED at Pensacola, Escambia County, Florida, this 1st day of November, 2005, *nunc pro tunc* October 1, 2005.

Signed by: Kim A. Skievaski, Chief Judge

Copies to:

The Honorable Kim A. Skievaski, Chief Judge
All Judges, Escambia County
The Honorable William Eddins, State Attorney
The Honorable Jack Behr, Public Defender
The Honorable Ernie L. Magaha, Clerk of Court
Wayne Peacock, Court Administrator
Gordon Pike, Community Corrections

THIS ADMINISTRATIVE ORDER IS ACCOMPANIED BY ATTACHMENTS THAT ARE NOT COMPATIBLE WITH SCREEN READERS. IF YOU WISH TO OBTAIN A COPY OF THE ATTACHMENTS TO THIS ADMINISTRATIVE ORDER, PLEASE CONTACT COURT ADMINISTRATION AT 850-595-4400.