

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

**ADMINISTRATIVE ORDER NO. 2009-13**

**IN RE:           PROBATION**

**PROBATION / COMMUNITY CONTROL  
VIOLATIONS OF FELONY PROBATION OR COMMUNITY CONTROL**

**WHEREAS**, Section 948.06(1), *Florida Statutes*, provides for the use of a technical notification letter and a Notice to Appear procedure for violations of felony probation or community control in certain circumstances, in lieu of a warrant for the arrest of the probationer; and

**WHEREAS**, there is a need for a uniform procedure within the circuit; and

**WHEREAS**, there is a need for a pilot project to evaluate the efficiency and effectiveness of the Notice to Appear process; and

**WHEREAS**, this order establishes procedures for the use of Technical Notification Letters and a pilot project for both the use of a Notice to Appear and an expedited procedure for modification or termination of supervision and entry of a final judgment for outstanding monetary obligations. Therefore, it is hereby

**ORDERED:**

1.     **TECHNICAL NOTIFICATION LETTERS.** In lieu of an arrest warrant the Department of Corrections (hereinafter “**DOC**”) may report to the assigned Judge alleged violations of probation or violations of community control by a Technical Notification Letter (hereinafter “**TNL**”) when an offender has:
  - (a)     failed to report to the probation officer as directed, and there is no reason to believe the offender has absconded;
  - (b)     failed to be truthful to the probation officer;
  - (c)     failed to follow instructions of the probation officer;
  - (d)     failed to obtain permission prior to moving from an approved residence;
  - (e)     failed to obtain permission prior to leaving approved employment;
  - (f)     failed to comply with the terms of curfew;
  - (g)     failed to obtain permission prior to leaving the county;
  - (h)     failed to make restitution payments;
  - (i)     failed to pay court costs, fines and fees as ordered;

- (j) failed to perform required community service;
- (k) committed a noncriminal ordinance violation; or
- (l) undergone a drug screen and received positive results.

2. The **TNL** shall contain the following options for the assigned Judge's determination:

- \_\_\_\_\_ No further action required. Continue to supervise.
- \_\_\_\_\_ Additional action required - provide detailed Violation Report, Affidavit and Warrant.
- \_\_\_\_\_ OTHER ACTION OR INSTRUCTIONS:

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Judge's Signature and Date: \_\_\_\_\_

3. If the Judge agrees the alleged violation does not require action by the Court, the **TNL** shall be forwarded to the Clerk of the Circuit Court for filing in the court file and a copy to the **DOC**. If the Judge determines the alleged violation requires further review by the Court, the Judge shall return the **TNL** to the **DOC** with instructions to either submit a Violation Report, Affidavit and Warrant as permitted by statute.

**PILOT PROJECT**

4. The following procedures are adopted for use in Felony Division 3 of the Circuit Court of the First Judicial Circuit Court in and for Okaloosa County, Florida, effective upon the date of signature of this Administrative Order and for a period of ninety (90) days.

5. **AFFIDAVIT OF VIOLATION AND NOTICE TO APPEAR.** In lieu of an arrest warrant, the **DOC** may pursue alleged violations of probation or community control by an affidavit of violation and Notice to Appear.

6. If an affidavit and Notice to Appear is submitted to the assigned Judge:

- (a) The **DOC** shall verify that the offender has never been convicted of committing and is not currently alleged to have committed a qualifying offense as defined in §948.06(8)(c), *Florida Statutes*, and is not a Violent Felony Offender of Special Concern as defined in §948.06(8)(b), *Florida Statutes*.

- (b) The Judge shall insert in the Notice to Appear, the date and place of the hearing on the violation. The **DOC** may request that the hearing be set after the next scheduled appointment with the offender. The original Notice to Appear shall be returned to the **DOC** after it is signed by the Judge.
- (c) The **DOC** shall serve the offender with a copy of the Notice to Appear indicating the date of service on the original Notice to Appear. The offender will sign the original Notice to Appear acknowledging receipt of a copy of the Notice to Appear.
- (d) After service upon the offender, the **DOC** shall file the original and two copies of the Notice to Appear with the Clerk of Court who shall provide a copy to the State Attorney's Office (hereinafter "**SAO**"), and a copy to the attorney for the defendant, if represented.
- (e) If the **DOC** is unable to serve the Notice to Appear upon the offender within a reasonable time before the date set for the Notice To Appear, the **DOC** shall return the Notice To Appear to the assigned Judge with a warrant for the offender's arrest **or** with a written request to reschedule the Notice To Appear to a new date.

7. **MODIFICATION OR TERMINATION AND JUDGMENT FOR OUTSTANDING MONETARY OBLIGATIONS.** If the offender is complying with all conditions except the payment of monetary obligations including restitution, costs of supervision, court costs, fines and fees, and the **DOC** has determined the offender does not have the present ability to pay, the **DOC** may request that the Judge modify or terminate probation or community control and enter judgment(s) for the outstanding monetary obligations without a hearing. The offender shall sign a statement agreeing to the amount of the outstanding monetary obligations. The Judge may sign the order modifying or terminating supervision and enter the judgment(s), or the Judge may direct the **DOC** to prepare a Notice To Appear.
8. A request to modify to waive costs of supervision or enter judgment for outstanding costs of supervision may be made directly to the Judge without providing notice to the **SAO** as below provided.
9. The **DOC** shall provide notice of the request to modify or terminate and enter judgment(s) to the **SAO**. The notice shall provide a place for the **SAO** to consent or object. In addition, the notice shall provide that unless the **SAO** objects to the request within ten (10) calendar days from the date of the notice from the **DOC**, the **DOC** shall submit the request to the Court without further notice or hearing.

10. If the **SAO** objects to the request, the **DOC** shall submit the request, together with the objection of the **SAO**, and the matter shall be set for hearing on the next available VOP docket.
11. If no objection is made by the **SAO** the **DOC** shall submit to the Judge an order modifying or terminating supervision and judgment(s) for the outstanding monetary obligation. The request to the Judge must include a statement by the **DOC** that the **SAO** has been notified and the **SAO** has either consented or that ten (10) days has passed since the notification and no objection has been received from the **SAO**.
12. After the completion of the pilot project period, the Chief Judge will determine the application of the procedure on a circuit-wide basis.

**DONE AND ORDERED** in Pensacola, Escambia County, Florida, this 16<sup>th</sup> day of March, 2009.

Signed by: Kim A. Skievaski, Chief Judge

Attachment: Form Notice to Appear

Conformed copies to:

All Judges, First Judicial Circuit  
All Clerks, First Judicial Circuit  
Honorable William Eddins, State Attorney  
Honorable James Owens, Public Defender  
Deborah Brown, Department of Corrections  
Robin Wright, Trial Courts Administrator  
*The Summation*, EscaRosa Bar Association for publication  
Okaloosa Walton Bar Association Newsletter for publication

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.