

IN THE CIRCUIT COURT OF THE
EIGHTEENTH JUDICIAL CIRCUIT,
IN AND FOR BREVARD COUNTY,
FLORIDA

ADMINISTRATIVE ORDER NO.:
24-08-B
SUPERSEDES 02-36-B

**IN RE: MENTAL HEATH – MISDEMEANOR & THIRD DEGREE FELONY DIVERSIONARY
MENTAL HEALTH COURT**

WHEREAS, specialized courts can enhance the expediency, effectiveness and the quality of judicial administration;

WHEREAS, it is essential that a new strategy be implemented to isolate and focus upon individuals arrested for misdemeanor offenses or third degree felonies who are mentally ill or developmentally disabled, in view of the unique nature of mental illness and developmental disability, and the need for appropriate treatment in an environment conducive to wellness and not punishment, as well as the continuing necessity to ensure the protection of the public;

WHEREAS, there is a recognized need to bring defendant's qualified to participate in the Diversionary Mental Health Court before a judge assigned to expeditiously and efficiently move mentally ill or developmentally disabled people from an overcrowded jail system into the mental health system without compromising the safety of the public;

WHEREAS, the rapidly increasing number of misdemeanor or third degree felony cases involving mentally ill or developmentally disabled defendants has contributed to the congested and overburdened court dockets in the county and circuit court criminal divisions, as well as jail overcrowding; and

WHEREAS, a centralized mental health program that utilizes available community resources and support systems will increase the efficiency of the criminal court system in this circuit and permit better access to a continuing shrinkage of mental health care services;

NOW THEREFORE, by authority vested in me as Chief Judge and pursuant to the Florida Rules of Judicial Administration, it is ORDERED:

1. Diversionary Mental Health Court shall be operational withing the Brevard County Court Criminal Division to hear cases involving defendant's who are suffering from mental illness or a developmental disability arrested for misdemeanors, criminal traffic offenses,

and/or third degree felonies, with the exception of those charged with domestic violence, driving under the influence, and sexual offenses. However, defendants charged with domestic violence involving parents and children or siblings may be accepted into the program with the approval of the Court. Court approval will be considered upon the consent of the victim and approval of the State Attorney and an agreement to participate by the defendant and the defendant's attorney. Defendants charged with simple battery or certain non-domestic (as set forth previously), Felony Batteries (based on a prior offense), Battery on Law Enforcement, Resisting an Officer With Violence or Battery on a Person 65 Years of age or over in situations between parent and child or Third Degree Felony Theft cases may be admitted with victims consent and approval of the State Attorney. Diversionary Mental Health Court may also hear cases in which a defendant is charged with a violation of county court probation with the consent of the county court judge of the criminal division to which the case is assigned.

2. Approval for participation in Diversionary Mental Health Court is at the sole discretion of the State Attorney. Referrals for third degree felony cases shall be made contemporaneously with Early Resolution Program. Felony cases which have moved to Docket Sounding are no longer eligible for Diversionary Mental Health Court.
3. Diversionary Mental Health Court is not a substance abuse treatment court as such possession charges will not be admitted said program nor will a defendant whose primary diagnosis is substance abuse as that issue must be addressed prior to mental health intervention.
4. Defendants seeking referral into the program will obtain an Application for Mental Health Court Diversion from the assigned Assistant State Attorney. Said document will be completed by defense counsel and defendant. Said application contains a written waiver of speedy trial and HIPPA to allow parties to review for qualifying diagnosis or developmental disability and defendant's ability to participate and comply with Diversionary Mental Health Court program. The criterion for admittance into the program requires a diagnosis by a mental health expert of (a) a current Axis I mental illness including Schizophrenia, Bi-Polar Disorder, Recurrent Major Depressive Disorder, Post-Traumatic Stress Disorder, or other psychotic disorders or an unspecified nature or (b) a developmental disability as defined in Section 393.063(12), Florida Statutes.
5. Individuals who have been declared incompetent in the last 6 months or those who otherwise lack the ability to comply with the rules of the program and instructions of the court are not eligible for Diversionary Mental Health Court.
6. Upon defendant's diagnosis of a current Axis I mental illness or developmental disability by a mental health expert, after approval of the parties set forth above and the Mental Health Court Judge's determination that the defendant is mentally ill, the Mental Health Court Judge shall enter an order transferring the case to Diversionary Mental Health Court and direct the Clerk to place the case or cases, including any qualifying traffic criminal cases involving the accepted defendant, on the Diversionary Mental Health Court docket.

7. In the event the defendant fails, for any reason, to successfully participate and complete the Diversionary Mental Health Court program, the case shall be transferred back to the original criminal division.
8. Defendants who are accepted for participation in the Diversionary Mental Health Court, and who voluntarily agree to participate in the Diversionary Mental Health Court, shall, at the discretion of the State Attorney, enter into a Deferred Prosecution Agreement, unless charged with a violation of county probation. Additionally, the court will enter an Order transferring the defendant's case(s) into the Diversionary Mental Health Court as a court event.
9. Defendants accepted into the Diversionary Mental Health Court will attend weekly court hearings as well as additional obligations as ordered by the court based on each defendant's needs. After the defendant's acceptance into the Diversionary Mental Health Court, the defendant will participate in continued assessment and treatment as discussed during court proceedings and engage in discharge planning. The defendant's participation will end upon the successful completion of the discharge plan. The charges will then be dismissed by the State Attorney or the violation of probation will be dismissed by the Diversionary Mental Health Court judge.
10. The public is entitled to access judicial records; however, patient treatment records are an exception to this rule and are deemed confidential by Florida law. See sections 395.3025(7), and 393.13, Florida Statutes (central records of clients who are determined to be eligible by the Department of Children and Family Services for development service). In the event a treatment record or report is placed in the court file of a Mental Health Court Participant, the court will determine whether such report is a confidential patient record, exempt under Florida law from public access, and if the court finds the record is exempt the court will seal the document and mark the envelop with the date, description and author of the document, whereupon access to the document will be limited to those authorized under Section 395.3025 and 393.13, Florida Statutes, or by court order.

DONE AND ORDERED, this 29th day of January, 2024.

CHARLIE CRAWFORD
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CHIEF JUDGE

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