

IN THE TWENTIETH JUDICIAL CIRCUIT IN AND FOR THE STATE OF FLORIDA

IN RE:            **ALTERNATIVE CONSEQUENCES  
PROGRAM FOR JUVENILE  
OFFENDERS**

**ADMINISTRATIVE  
ORDER  
8.9**

For juvenile offenders, some technical violations of probation do not involve a new arrest or serious misconduct. Recidivism may be reduced by utilizing collaborative efforts among the court, probation, and law enforcement to hold juveniles accountable and apply swift and certain sanctions for technical violations of probation. Similarly, appropriate incentives may increase compliance with probation conditions and more quickly move juveniles towards rehabilitation and early termination of probation. In addition, if out of court consequences can be applied, judicial resources and court dockets can be reduced, as can the workload of prosecutors, defense attorneys, and law enforcement.

To address these issues, the Twentieth Judicial Circuit, in accord with requirements laid out by the Florida Legislature in section 985.435(4), Florida Statutes (2021), is instituting an Alternative Consequences Program for Juvenile Offenders ("the Program"). The Program is based upon the principle that certain sanctions and incentives are appropriately handled without judicial involvement as long as they reflect the seriousness of the violation, the assessed criminogenic needs and risks of the child, the child's age and maturity level, and how effective the sanction or incentive will be in moving the child to compliant behavior.

The alternative consequences described below are **ONLY ADVISORY AND ARE NOT MANDATORY**. They are offered as guidelines to the Department of Juvenile Justice (DJJ) to incentivize compliant behavior and to address misconduct of juvenile probationers with alternatives to formal violations of probation. Nothing in this Order infringes on the discretion of prosecutors, law enforcement, and probation officers to file or not file formal violations as they deem appropriate and when they are lawfully authorized to do so.

**NOW, THEREFORE**, pursuant to the authority conferred by Florida Rule of General Practice and Judicial Administration 2.215 and section 985.435(4), it is **ORDERED** as follows:

**1. ALTERNATIVE CONSEQUENCES PROGRAM.** There is created in the Twentieth Judicial Circuit, which includes Lee, Collier, Charlotte, Hendry, and Glades counties, a program that shall be known as the Alternative Consequences Program in accordance with section 985.435(4), Florida Statutes (2021). The Alternative Consequences Program provides the court and the Florida Department of Juvenile Justice ("DJJ") an alternative, administrative method of reporting and resolving certain technical violations of probation.

**2. ELIGIBILITY CRITERIA** (the incentive will be used one time only for eligible youth):

a. Eligibility for incentives will be begin after 30 days from the start of probation.

I hereby certify this document to  
be a true and correct copy of the  
record on file in my office  
Kevin C. Karnes, Clerk of the  
Circuit Court, Lee County FL  
Dated: 8/30/22

By Kevin C. Karnes  
Clerk of Court



b. Only those juvenile offenders whose conditions of probation or post-commitment probation include participation in the Program are eligible. However, except for 3<sup>rd</sup> degree felony burglaries and written threat to do violence, any offenses that fall under section 776.08 (forcible felonies), Florida Statutes, automatically disqualify the youth. The approval of this program for juveniles charged with 3<sup>rd</sup> degree felony burglary offenses or a written threat offense will be at the discretion of the Court.

c. Any juvenile offenders on probation or post-commitment probation who have committed a technical violation of probation.

d. Juveniles charged with new law violations, felony or misdemeanor, and any other non-technical violations of probation are not eligible for the Program.

e. Juveniles who have allegedly absconded or left their residence without notice for 24 hours or more are not eligible for the Program.

f. Juveniles who have allegedly violated any no contact order or no contact condition of probation are not eligible for the Program.

3. DJJ will electronically notify the State Attorney and the defense attorney of record of its intention to impose any alternative sanction or incentive on a juvenile as well as the conduct underlying the sanction or incentive. The notice shall include information pertinent to the youth's history regarding previous violations. Upon receipt of the notice, the State Attorney and defense attorney of record will have 48 hours (excluding weekends and holidays) to inform DJJ in writing of their objection. In the event any party objects, DJJ is prohibited from imposing the sanction or incentive but may take any other action it deems appropriate, including filing or not filing a formal violation of probation. Based upon an objection, the imposition of the incentive or sanction, can be heard before the court. If no objection is lodged, DJJ may then impose the sanction or incentive.

4. The juvenile has 30 days to comply with the sanction. In the event any juvenile fails to comply with any sanction imposed by DJJ, DJJ may take any action it deems appropriate, including filing or not filing a formal violation of probation. DJJ must notify the State Attorney and the defense attorney of record that the youth has failed to comply.

5. In utilizing this Program, all parties must ensure that the requirements regarding victim rights as set forth in article I, section 16, subsection (b) of the Florida Constitution are met.

6. On an annual basis, the Twentieth Judicial Circuit Probation Committee (Juvenile) shall meet to review and update the incentive and sanction matrices as warranted by their demonstrated effectiveness. The Probation Committee (Juvenile) shall be led by a judge selected by the Chief Judge and shall include representatives from the State Attorney, Public Defender, DJJ, Office of Regional Conflict Counsel, and law enforcement agencies.





### ALTERNATIVE CONSEQUENCES PROGRAM INCENTIVE MATRIX

The following matrix lists specific conduct that may be rewarded with incentives as part of the Program. Each behavior includes a list of incentives from which a probation officer may select based on the individual juvenile's circumstances at the time.

<b>BEHAVIOR</b>	<b>Underlying Misdemeanor</b>	<b>Underlying Felony</b>	<b>Underlying Crime Against Person or Gun Offense</b>
<b>Obtain employment (employed at least 30 days)</b>	Increase curfew by up to 1 hour or reduce community service by up to 5 hours	Increase curfew by up to 30 minutes or reduce community service by up to 5 hours	Increase curfew by up to 30 minutes or reduce community service by up to 5 hours
<b>Completion of half of the court-ordered community service</b>	Increase curfew by up to 1 hour or reduce community service by up to 5 hours	Increase curfew by up to 30 minutes or reduce community service by up to 5 hours	Increase curfew by up to 30 minutes or reduce community service by up to 5 hours
<b>90-day compliance with curfew</b>	Increase curfew by up to 1 hour or reduce community service by up to 5 hours	Increase curfew by up to 30 minutes or reduce community service by up to 5 hours	Increase curfew by up to 30 minutes or reduce community service by up to 5 hours
<b>Extracurricular accomplishment – participation for 45 days (athletics, art, music, etc.)</b>	Increase curfew by up to 1 hour or reduce community service by up to 5 hours	Increase curfew by up to 30 minutes or reduce community service by up to 5 hours	Increase curfew by up to 30 minutes or reduce community service by up to 5 hours

### ALTERNATIVE CONSEQUENCES PROGRAM SANCTION MATRIX

The following matrix lists specific technical violations that may be addressed with alternative sanctions. Each violation includes a list of sanctions from which a probation officer may select based on the individual juvenile's circumstances at the time.

<b>BEHAVIOR</b>	<b>Underlying Misdemeanor</b>	<b>Underlying Felony</b>	<b>Underlying Crime Against Person or Gun Offense</b>
<b>Substance Use</b>			
<b>(1) Missed drug test</b>	Documented verbal intervention by JPO	Documented verbal intervention by JPO	Documented verbal intervention by JPO
<b>(2) Missed drug tests</b>	Double the number of drug tests previously ordered and subject to field testing	Double the number of drug tests previously ordered and subject to field testing	Double the number of drug tests previously ordered and subject to field testing
<b>(3 or more) Missed drug tests</b>	Set for status review before the court	Set for status review before the court	Set for status review before the court



Any positive/dilute drug test	If not in treatment, substance abuse assessment; if in treatment, evaluation for residential treatment	If not in treatment, substance abuse assessment; if in treatment, evaluation for residential treatment	If not in treatment, substance abuse assessment; if in treatment, evaluation for residential treatment
Admission of use	If not in treatment, substance abuse assessment; If in treatment, evaluation for residential treatment	If not in treatment, substance abuse assessment; If in treatment, evaluation for residential treatment	If not in treatment, substance abuse assessment; If in treatment, evaluation for residential treatment
<b>Education</b>			
Receive out of school suspension	Set for status review before the court	Set for status review before the court	Set for status review before the court
(5 or less) skipped classes	Meeting with JPO, parent and school and written notice to State Attorney and Defense Counsel	Meeting with JPO, parent and school and written notice to State Attorney and Defense Counsel	Meeting with JPO, parent and school and written notice to State Attorney and Defense Counsel
(More than 5) skipped classes	JPO to notify Court and set for status review. Education Liaison (if applicable) or JPO to provide written attendance report to State Attorney, Defense Counsel and JPO every 15 days	JPO to notify Court and set for status review. Education Liaison (if applicable) or JPO to provide written attendance report to State Attorney, Defense Counsel and JPO every 15 days	JPO to notify Court and set for status review. Education Liaison (if applicable) or JPO to provide written attendance report to State Attorney, Defense Counsel and JPO every 15 days
(1-2) Unexcused absences	Verbal intervention by JPO	Verbal intervention by JPO	Verbal intervention by JPO
(3 or more) Unexcused absences	Set for status review before the court. Education Liaison (if applicable) or JPO to provide written attendance report to State Attorney and Defense Counsel every 15 days	Set for status review before the court. Education Liaison (if applicable) or JPO to provide written attendance report to State Attorney and Defense Counsel every 15 days	Set for status review before the court. Education Liaison (if applicable) or JPO to attain and provide written attendance report to State Attorney and Defense Counsel every 15 days
<b>Non-compliance services, evaluations and treatment</b>			
Withdrawal from School	Set for status review before the court	Set for status review before the court	Set for status review before the court
(1) Missed session/class	Documented verbal intervention by JPO	Documented verbal intervention by JPO	Documented verbal intervention by JPO
(2 or more) Missed sessions	Set for status review before the court	Set for status review before the court	Set for status review before the court
Unsuccessful discharge/withdrawal	Set for status review before the court	Set for status review before the court	Set for status review before the court






Association with co-defendants	5 community service hours; subsequent violation set for status review before the court	5 community service hours; subsequent violation set for status review before the court	5 community service hours; subsequent violation set for status review before the court
<b>Curfew</b>			
(1) Failure (Willful) to comply with curfew	Verbal intervention by JPO	Complete 3 community service hours	Complete 3 community service hours
(2) Failure to comply with curfew	Complete 3 community service hours	Complete 5 community service hours	Complete 5 community service hours
(3 or more) Failure to comply with curfew	Set for status review before the court	Set for status review before the court	Set for status review before the court
<b>Failure to complete community service hours</b>			
Failure to comply with community service hours within time ordered period	Set for status review before the court	Set for status review before the court	Set for status review before the court

7. **ADMINISTRATION.** The Alternative Consequences Program shall be administered by the Circuit Court and the Florida Department of Juvenile Justice.

8. **CURRENT LAW.** This Administrative Order comports with current law. However, to the extent that this Administrative Order may later conflict with law, statute, or rule, the law, statute, or rule shall prevail.

9. **EFFECTIVE DATE.** This Administrative Order shall be effective upon signing.

**DONE and ORDERED** in Chambers at Fort Myers, Lee County, Florida, this 29<sup>th</sup> day of August, 2022.



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Michael T. McHugh  
Chief Judge

History.- New.

