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BOB INZER, CLERK OF COURTS

**IN THE SECOND JUDICIAL CIRCUIT
OF FLORIDA**

OFFICE OF THE CHIEF JUDGE

ADMINISTRATIVE ORDER 2016-05

IN RE: LEON COUNTY VETERANS TREATMENT COURT PROCEDURES

Whereas, the Chief Judge of the Circuit is authorized to establish a Veterans Treatment Court Program by sections 394.47891, 948.08(7), 910.035(5), 948.16 and 948.21 of the Florida Statutes; and

Whereas, the Florida Legislature appropriated recurring state funds to establish a veterans treatment intervention program in Leon County, the Governor signed this legislation into law effective July 1, 2015, and the Leon County Board of County Commissioners agreed to serve as fiscal agent for a veterans court effective July 7, 2015; and

Whereas the Leon County Veterans Treatment Court (VTC) was established in Leon County by Administrative Order 2015-07 in and for the Second Judicial Circuit of Florida with an effective date of November 1, 2015.

It is therefore **ORDERED**:

The following procedures shall apply to the Leon County Veterans Treatment Court.

I. Assignment of VTC Judge by Separate Administrative Order.

The Chief Judge shall assign the VTC Judge by the separate assignment administrative order.

II. Assignment of Misdemeanor Cases to VTC.

A. Screening of Eligible Veterans and Servicemembers.

Court Administration Staff shall work with the VTC Pretrial Intervention Officer and the Veterans Justice Outreach Specialist of the Veterans Administration to identify misdemeanor or misdemeanor criminal traffic charged or sentenced defendants who meet eligibility criteria established by sections 394.47891, and 948.16 of the Florida Statutes. As provided by statute, the defendant's participation in VTC must be voluntary. No defendant is eligible for VTC court without the Defendant's agreement to accept all terms and conditions of VTC. No case shall be assigned to VTC until the Veterans Justice Outreach Specialist makes a preliminary eligibility determination.

B. Delegation of Authority to Assign Misdemeanor Cases Before Trial.

The Chief Judge hereby delegates to the VTC Judge authority to assign, by written order, any eligible misdemeanor charged defendant to the VTC at any time prior to the first pretrial conference.

After the first pretrial conference, no case shall be transferred to VTC without written consent of the regularly assigned judge. If the regularly assigned judge consents, the VTC Judge shall have authority to reassign such case to the VTC by written order.

C. Delegation of Authority to Assign Misdemeanor Cases After Adjudication.

The Chief Judge hereby delegates to each assigned Leon County Judge authority to assign, by written order, any eligible misdemeanor charged defendant to the VTC after the entry by the defendant of a plea of no contest, plea of guilty, or conviction at trial including for sentencing by the VTC Judge.

D. Objection to Misdemeanor VTC Assignment.

Should the State wish to contest eligibility of a case for assignment to VTC, the State must file a written motion stating the basis for its objection. The VTC Judge shall have authority to resolve such objections.

III. VTC Misdemeanor Pretrial Case Resolution.

As directed by section 948.16 of the Florida Statutes, at the end of the pretrial intervention period, the court shall consider the recommendation of the treatment program and the recommendation of the state attorney as to disposition of the pending charges.

The court shall determine, by written finding, whether the defendant successfully completed the pretrial intervention program. The parties shall have notice and a fair opportunity to be heard prior to such determination.

If the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment or return the charges to the criminal docket for prosecution.

The court shall dismiss the charges upon finding that the defendant has successfully completed the pretrial intervention program.

IV. VTC Misdemeanor Post-Adjudicatory Case Resolution.

The VTC Judge shall determine whether the Defendant has adequately completed VTC. All parties shall have notice and a fair opportunity to be heard before such determination.

Upon successful completion of Misdemeanor Post-Adjudicatory Veterans Treatment Court, the VTC Judge may consider withholding adjudication of guilt or early termination of probation by written order. With the consent of the State on the record, the VTC Judge may permit the defendant to withdraw a prior plea of no contest or guilty and administratively dismiss the VTC charges.

Upon unsuccessful completion of Misdemeanor Post-Adjudicatory Veterans Treatment Court, the VTC Judge may order the person to continue in education and treatment, which may include treatment programs offered by licensed service providers or jail-based treatment programs, or return the charges to the criminal docket for prosecution. Prior to such written order, the State and Defendant shall have notice and a fair opportunity to be heard as to the exercise of the Court's discretion.

V. Assignment of Felony Cases to VTC.

A. Screening of Eligible Veterans and Servicemembers.

Court Administration Staff shall work with the VTC Pretrial Intervention Officer and the Veterans Justice Outreach Specialist of the Veterans Administration to identify felony charged or sentenced defendants who meet eligibility criteria established by sections 394.47891 and 948.08(7)(a) of the Florida Statutes. No case shall be assigned to VTC until the Veterans Justice Outreach Specialist makes a preliminary eligibility determination. As provided by statute, the defendant's participation in VTC must be voluntary. Offenses listed by section 948.06(8)(c) are excluded from assignment to VTC absent written agreement by the State and Defendant and written order approving such agreement by the assigned felony division judge and the VTC Judge.

B. Delegation of Authority to Assign Felony Cases Before Trial.

The Chief Judge hereby delegates to each judge of the felony division authority to assign, by written order, any eligible felony charged defendant's case to the VTC at any time. The State and Defendant shall have notice and an opportunity to be heard before the issuance of an order assigning any felony case to VTC before trial.

C. Delegation of Authority to Assign Felony Cases After Adjudication.

The Chief Judge hereby delegates to each judge of the felony division authority to assign, by written order, any eligible felony charged defendant to the VTC after the entry a plea of no contest, plea of guilty, or conviction at trial. The State and Defendant shall have notice and a fair opportunity to be heard before the issuance of an order assigning any felony case to VTC after entry of a plea of guilty or no contest, or after conviction at trial. Each judge of the felony division is delegated authority to assign such cases to the VTC Judge for sentencing after such plea or conviction or to impose completion of VTC as a condition of probation.

The parties may propose a plea agreement specifying VTC as a condition of probation for screened, eligible defendants. If the felony judge accepts a written plea agreement providing for VTC as a condition of probation, the VTC Judge shall have authority to execute a written order assigning all cases subject to such plea agreement to VTC. Any such plea agreement shall designate successful completion of all conditions of VTC as a special condition of probation in addition to any other agreed special conditions of probation.

D. VTC Felony Pretrial Case Resolution.

As directed by section 948.08(7)(c) of the Florida Statutes, at the end of the pretrial intervention period, the VTC Judge shall consider the recommendation of the treatment program and the recommendation of the State as to disposition of the pending charges.

The VTC Judge shall determine, by written finding, whether the defendant has successfully completed the pretrial intervention program. The parties shall have notice and a fair opportunity to be heard prior to such determination.

If the VTC Judge finds that the defendant has not successfully completed the pretrial intervention program, the VTC Judge may order the person to continue in education and treatment, which may include treatment programs offered by licensed service providers or jail-based treatment programs, or order that the charges revert to normal channels for prosecution.

The VTC Judge shall dismiss the charges upon a finding that the defendant has successfully completed the pretrial intervention program.

E. VTC Felony Post-Adjudicatory Case Resolution.

The VTC Judge shall determine whether the Defendant has adequately completed VTC.

Upon successful completion of Felony Post-Adjudicatory Veterans Treatment Court, the VTC Judge may consider granting a withhold of adjudication or early termination of probation by written order. With the consent of the State on the record, the VTC Judge may permit the defendant to withdraw a prior plea of no contest or guilty and administratively dismiss the VTC charges.

Upon unsuccessful completion of Felony Post-Adjudicatory Veterans Treatment Court, the VTC Judge shall, by written order, return such cases to the felony criminal division for ordinary prosecution. Prior to such written order, the State and Defendant shall have notice and a fair opportunity to be heard as to the exercise of the Court's discretion.

F. VTC Conditions, Services and Sanctions.

No case or defendant shall be assigned to VTC unless the Defendant accepts successful completion of VTC conditions as the Defendant's binding, legal responsibility.

VTC conditions shall include waiver of speedy trial for pretrial defendants, attending VTC court dates as directed by the VTC Judge, participating in assessments by the Veterans Administration and such other providers as may be required by the VTC court, attending all scheduled assessment and treatment appointments, refraining from use or possession of illegal substances, submitting to substance abuse testing, and committing no criminal acts.

The VTC Judge shall have authority to designate such other special conditions as the State and Defendant agree or as otherwise ordered by the VTC Judge. Should the Defendant refuse to accept a condition deemed necessary by the VTC Judge, such refusal may be deemed withdrawal of voluntary consent by the Defendant, and therefore, unsuccessful completion of VTC.

All VTC treatment and other services for veterans shall be provided through or under the supervision of the Veterans Administration.

Servicemembers who are eligible for VTC court but excluded from Veterans Administration services shall receive service otherwise available through State, County, local and court administration resources.

The VTC Judge shall have authority to impose sanctions against the Defendant for non-compliance with VTC conditions including imposition of additional assessment and services, community service hours, jail work-camp if otherwise available, up to 10 days of jail time, order to the Department of Corrections for violation of probation processing and sentencing, and unsuccessful completion of VTC referral for ordinary prosecution. The State and Defense shall have notice and an opportunity to be heard before the issuance of an order imposing sanctions.

G. New Charges During VTC.

The VTC Judge has discretion to determine whether new misdemeanor offenses committed during the period of VTC court supervision shall be referred to VTC court or whether such new offenses shall constitute unsuccessful completion of VTC. The State and Defense shall have notice and an opportunity to be heard before the issuance of an order assigning any new misdemeanor case to VTC or imposing unsuccessful completion sanctions.

Should the Defendant be charged with new felony offenses while assigned to VTC, such new felony offenses shall initially be assigned to the felony division. The assigned felony judge may assign, by written order, any new eligible felony charged defendant to the VTC at any time. The State and Defendant shall have notice and an opportunity to be heard before the issuance of an order assigning any felony case to VTC before trial. The VTC Judge has discretion to determine whether any new felony offense committed during the period of VTC court shall constitute unsuccessful completion of VTC.

VI. Effective Date.

This order shall become effective upon signing.

DONE and ORDERED in chambers in Tallahassee, Leon County, Florida, this 10th
day of June 2016.



JONATHAN SJOSTROM
Chief Judge

Copies furnished to:

All Circuit and County Judges, Second Judicial Circuit
All Clerks of the Court, Second Judicial Circuit
State Attorney, Second Judicial Circuit
Public Defender, Second Judicial Circuit
Office of Court Administration, Second Judicial Circuit