

**IN THE CIRCUIT COURT, SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA**

ADMINISTRATIVE ORDER NO. 2022-046 PI-CIR

RE: MENTAL HEALTH COURT PINELLAS COUNTY – OCTOBER 2022

Pursuant to Florida Statutes Chapter 394 (“The Florida Mental Health Act” or “The Baker Act”), the Legislature encouraged the creation of Mental Health Court programs to meet the needs of adults who have a mental illness and who are in, or at risk of entering, the criminal justice system. Section Q will be the circuit criminal division that administers Mental Health Court.

In order to establish a mental health court program in the Circuit Court in Pinellas County and in order to clearly establish the parameters of mental health court, it is:

ORDERED:

1. The purpose of mental health court is to address the treatment needs of a defendant in the justice system. The goal of mental health court is to provide the defendant with the treatment services necessary to address the severity of the identified mental health illness so that the defendant may become a productive member of society.

2. Circuit criminal cases shall not be assigned on a random basis to mental health court. Cases shall be assigned to mental health court in accordance with this Administrative Order.

3. The Public Defender’s Office shall conduct a clinical assessment for all defendants. If appropriate, the Public Defender’s Office will then refer the case to the State Attorney’s Office where the case will be assessed for legal eligibility to be heard in mental health court. The cases may either be initially assigned by direct information to mental health court by the State Attorney’s Office or be transferred from another criminal section to mental health court upon written notification by the State Attorney’s Office to the Administrative Office of the Courts. Appendix A contains the eligibility criteria for a defendant’s admission into the mental health court. The Court may amend Appendix A to change the eligibility criteria as needed without amending this administrative order.

4. Mental health court may handle cases both pre-trial and post-adjudicatory. Participation in mental health court is voluntary. As pursuant to § 394.47892(4)(a), F.S., the sentencing court will base a decision to allow entry to mental health court as part of community control or probation on the court’s assessment of the defendant’s criminal history, mental health screening outcome, amenability to the services, and total sentence points as well as the recommendation of the State Attorney’s office and victim, if any.

5. If a private defense attorney desires to have a case heard in mental health court, he or she must refer the case to the State Attorney’s Office where the case will be assessed for legal eligibility to be heard in mental health court. Upon approval, the case shall be reassigned from another criminal section to mental health court upon written notification by the State Attorney’s Office to the Administrative Office of the Courts.

6. The court assigned to mental health court retains ultimate responsibility for approving a case as appropriate for mental health court. While the State Attorney's Office makes the decision as to whether a case will be filed in or transferred to mental health court, the court assigned to mental health court retains authority to decide that a case will not remain in mental health court. If the court decides that a case will not remain in mental health court, the State Attorney's Office and the defense attorney shall be notified and the case shall be transferred back to the regular criminal section from which it was transferred, or division N, if appropriate. If a case has been initially assigned to mental health court, the case shall be randomly assigned to another criminal section in accordance with Sixth Jud. Cir. Loc. R. 3.

7. A defendant may voluntarily elect not to have his or her case heard in mental health court. Upon a defendant electing not to have his or her case heard in mental health court, the case shall be transferred back to the regular criminal section from which it was transferred. If a case has been initially assigned to mental health, the case shall be assigned to another criminal section in accordance with Sixth Jud. Cir. Loc. R. 3.

8. By agreeing to have his or her case heard in mental health court, the defendant agrees that no depositions will be taken, trial dates scheduled, or substantive pre-trial motions heard. If a pre-trial motion must be heard, the case shall be transferred back to the regular criminal section from which it was transferred. If a case has been initially assigned to mental health court, the case shall be assigned to another criminal section in accordance with Sixth Jud. Cir. Loc. R. 3.

9. As contemplated by 42 C.F.R. § 2.35, a defendant whose case has been assigned to mental health court must voluntarily and truthfully provide information to aid the court at each step in the process. As a condition of having his or her case heard in mental health court, the defendant must execute a written consent form with a waiver of confidentiality as to treatment as provided in 42 C.F.R. § 2.31, prior to disposition of the case. If the defendant refuses to execute the written consent, the case shall be transferred back to the regular criminal section from which it was transferred. If a case has been initially assigned to mental health court, the case shall be assigned to another criminal section in accordance with Sixth Jud. Cir. Loc. R. 3.

10. Pursuant to Florida Rules of General Practice and Judicial Administration ("FRGPJA") 2.240(d)(1)(B)(viii), which cites to Chapter 394, F.S., all "clinical records" generated or held as part of the mental health court case are confidential and exempt from public disclosure. Therefore, such clinical records generated or held as part of the mental health court case may only be released or disclosed as permitted by law (see Paragraph 13 for further guidance). The Clerk of the Court shall mark and maintain clinical records generated or held as part of the mental health court case as confidential. Pursuant to Section 394.455, F.S., a "clinical record" means "all parts of the record required to be maintained [as part of mental health treatment] and includes all medical records, progress notes, charts, and admission and discharge data, and all other information recorded by facility staff which pertains to the patient's hospitalization or treatment."

11. In all instances where a case is transferred from mental health court to a regular criminal section, the mental health court shall serve as the gatekeeper of the clinical records generated or held as part of the mental health court case (see Paragraph 13). In all instances where a case is transferred from mental health court to the regular criminal section, the Clerk of

the Court shall continue to maintain clinical records generated or held as part of the mental health court case as confidential.

12. In all instances where a defendant's participation in mental health court concludes through successful completion and graduation from the program, the mental health court shall serve as the gatekeeper of the clinical records generated or held as part of the mental health court case (see Paragraph 13). The Clerk of the Court shall mark and maintain clinical records generated or held as part of the mental health court case as confidential.

13. Any motion for release of clinical records generated or held as part of the mental health court case received by the Clerk of the Court shall be referred to the mental health court. As the gatekeeper of clinical records generated or held as part of a mental health court case, the mental health court shall determine whether and to whom clinical records generated or held as part of the mental health court case may be released or disclosed as permitted by law. Under FRGPJA 2.240, confidential court records may only be released to the persons or organizations designated by law, statute, or by court order. Absent determination that release is otherwise unlawful, the mental health court, as gatekeeper, will direct that clinical records be released when the following requirements are met, in compliance with Chapter 394, F.S.:

- a. The defendant/patient authorizes the release;
- b. The defendant/patient is represented by counsel and the records are needed by the defendant's/patient's counsel for adequate representation; and
- c. The court orders such release. In determining whether there is good cause for disclosure, the court shall weigh the need for the information to be disclosed against the possible harm of disclosure to the person to whom such information pertains.

14. Before a plea is tendered or a defendant can be sentenced in mental health court, the defendant must submit to an initial mental health assessment/evaluation. The evaluation should occur within 21 days of arraignment or within such other time as may be ordered by the court. The evaluation provides an overall assessment of the defendant's mental illness and the resources needed to treat that illness. The provider who administers the evaluation must use objective standards and criteria and must be licensed by the Department of Children and Families. The written evaluation is the primary document consulted by the court in fashioning an appropriate sentence.

15. Staff in the Administrative Office of the Courts facilitates the process by which a defendant is evaluated; coordinates the procedure by which the written evaluation is furnished to the state, defense counsel, and the court; assists the court in managing its caseload; compiles statistics; prepares the cases scheduled on the calendar; schedules initial appointments with treatment providers; and performs other case management functions for the court as required.

16. The requirements imposed in mental health court are within the court's discretion and include but are not limited to outpatient treatment programs. Treatment providers must be licensed by the Department of Children and Families for the type of treatment provided. Some providers are funded by Pinellas County through a purchase directive. Court probation is the initial requirement typically imposed in post-adjudicatory cases. As a condition of court probation, a defendant will typically be sentenced to the least intensive treatment program necessary for rehabilitation. Other conditions of probation may be ordered, such as random drug testing or obtaining a G.E.D.

17. As pursuant to § 948.01(8)(c), F.S., the Department of Corrections has agreed to provide supervision for defendants on pre-trial status as well as those defendants in mental health court on probation and community control for both felony offenses and misdemeanor offenses that were originally filed as felonies. The Pinellas County Sheriff's Misdemeanor Probation Department has agreed to supervise all other misdemeanor offenses assigned to the mental health court.

18. The sanctions imposed for a violation of probation are within the court's discretion. The court may continue probation; revoke probation and order a new term of probation; impose a term of incarceration in either the county jail or Department of Corrections, as provided by the Criminal Punishment Code; or impose any other sanction authorized by law.

19. Every defendant sentenced in mental health court must periodically return to court for a judicial review, at the court's discretion. The purpose of a judicial review is to assess the defendant's level of participation in treatment, monitor the overall success of treatment, and admonish or encourage the defendant in his or her attempt at treatment. Prior to a judicial review, the court may hold a case staffing with treatment providers, court staff, Department of Corrections personnel, assistant public defenders, assistant state attorneys, and others selected by the court.

20. Subject to existing law, for defendants in the pre-trial diversion track, successful completion and graduation from the program will result in having the charges dismissed. For defendants on the post-plea probationary track, successful completion and graduation may result in the court withholding adjudication of guilt or a reduced probationary period.

21. The court will review a defendant's successful completion of the assigned treatment. The court will make the ultimate decision as to whether a defendant may graduate from mental health court.

DONE AND ORDERED in Chambers at St. Petersburg, Pinellas County, Florida, this _____ day of October, 2022.

ORIGINAL SIGNED ON OCTOBER 11, 2022
BY ANTHONY RONDOLINO, CHIEF JUDGE

cc: All Pinellas Judges
The Honorable Bruce Bartlett, State Attorney
The Honorable Sara Mollo, Public Defender
The Honorable Ken Burke, Clerk of Court, Pinellas County
Gay Inskeep, Trial Courts Administrator
Ita M. Neymotin, Regional Counsel, Second District
Ngozi C. Acholonu, Assistant Regional Counsel, Second District
Chief Probation Officer, Department of Corrections
Bar Associations, Pasco and Pinellas Counties
Law Libraries, Pasco and Pinellas Counties

Appendix A

Mental Health Court Eligibility Criteria

Individuals with serious mental health, and possible co-occurring substance abuse disorders who are charged with a non-violent, 3rd degree felony and select misdemeanor cases in Pinellas County and are at risk of reoffending as a result of their mental illness.

Violent felony offenders of special concern, as defined in § 948.06(8)(b), Florida Statutes, are not eligible for mental health court. Note: Defendants charged with resisting an officer with violence under § 843.01, Florida Statutes; battery on a law enforcement officer under § 784.07, Florida Statutes; or aggravated assault may participate in the mental health court program if the court so orders after the victim is given his or her right to provide testimony or written statement to the court as provided in § 921.143, Florida Statutes. Pretrial defendants charged with aggravated assault may participate in the mental health court program if the victim and State Attorney consent.