

IN THE TENTH JUDICIAL CIRCUIT COURT IN AND FOR
HARDEE, HIGHLANDS, AND POLK COUNTIES, FLORIDA

ADMINISTRATIVE ORDER NO. 6-24.0

IN RE: JUVENILE ALTERNATIVE CONSEQUENCES

WHEREAS, section 985.439(4)(b), Florida Statutes, provides for the placement of a juvenile who has committed a “violation of probation [that] is technical in nature and not a new violation of law” in an alternative consequence program; and

WHEREAS, pursuant to section 985.439(4)(b), the Court, state attorney, public defender, and local law enforcement agencies have determined that the establishment of an “alternative consequence program designed to provide swift and appropriate consequences to any further violations of probation” will be beneficial to the community and juveniles on probation within the Circuit; and

WHEREAS, in accordance with Article V, section 2, Florida Constitution, Florida Rules of General Practice and Judicial Administration 2.215, and section 43.26, Florida Statutes, it is

ORDERED:

I. When Alternative Consequence Program Permitted: An alternative consequence may only be recommended under the following conditions:

1. The juvenile is on probation for a misdemeanor that is not sex-related or weapons-related; and
2. The juvenile is on his or her first term of probation; and
3. The juvenile does not have a prior violation of probation; and
4. The violation of probation is not for the juvenile having contact with a victim, co-defendant, or any named person that the juvenile is prohibited from having contact with.

II. Procedure for Requesting Alternative Consequence(s):

1. Technical violations of probation (VOP) that do not involve a new violation of law will be addressed through a written request for alternative consequence(s) from the Department of Juvenile Justice (DJJ). DJJ will notify the State Attorney of its intention to impose any alternative consequence(s) or incentive(s) on a juvenile within 72 hours (excluding weekends and holidays) of learning of the violation. This notice will include the conduct generating the alternative consequence(s) recommendation and all prior alternative consequences and incentives imposed by DJJ on the juvenile. Alternative consequences requested by DJJ must be in compliance with the Alternative Consequences Matrix, attached hereto as Attachment A.

2. Upon receipt of the request from DJJ, the State Attorney will have 72 hours (excluding weekends and holidays) to inform DJJ of their objection. In the event the State Attorney objects, DJJ is prohibited from imposing the consequences(s) or incentive(s). If no objection is lodged within 72 hours (excluding weekends or holidays), DJJ may then impose the consequence(s) or incentive(s).
3. Upon written objection, the State Attorney may also give notice that a VOP will be filed by the State Attorney. Pursuant to *Florida Statutes §985.439(1)(b)*, “if the conditions of the probation program or the post commitment probation program are violated, the department or the state attorney may bring the child before the Court on a petition alleging a violation of the program. A child who violates the conditions of probation or post commitment probation must be brought before the Court if sanctions are sought.”
4. DJJ is directed to file the written request for alternative consequence(s) containing the response of the State Attorney with the Juvenile Clerk of Court in order to maintain accurate recordkeeping of alternative consequences requested for a juvenile. DJJ will follow policy making procedures for documentation of its processes.

III. General Provisions:

1. No more than two alternative consequences in total may be given for any juvenile over the course of probation.
2. Failure to comply with the alternative consequences will result in a VOP being filed with the Court.

IV. Effective Date:

This administrative order is effective upon signing.

DONE and ORDERED in Bartow, Florida, on this 23rd day of November, 2021.

s/ELLEN S. MASTERS, Chief Judge

Original: Polk County Clerk of Courts

Copies:

All Judges

Polk County Clerk of Courts

Highlands County Clerk of Courts

Hardee County Clerk of Courts

Office of the State Attorney

Office of the Public Defender

Office of Criminal Conflict and Civil Regional Counsel, Second District

Trial Court Administrator

Department of Juvenile Justice

Hardee, Highlands, and Polk County Law Enforcement Agencies

Electronic Bar Mailing

ATTACHMENT A
ALTERNATIVE CONSEQUENCES MATRIX

TYPE OF VIOLATIONS	WHEN ALTERNATIVE CONSEQUENCES PERMITTED <i>*Failure to comply with the alternative consequence will result in a VOP being filed with the Court*</i>	AVAILABLE ALTERNATIVE CONSEQUENCES <i>*No more than 2 alternative consequences allowed per juvenile probationer*</i>
CURFEW VIOLATIONS:		
Violation of court ordered curfew	<ul style="list-style-type: none"> • First reported curfew violation prior to 11:00 p.m. • Additional curfew violations that occur within 12 months of the first reported curfew violation will result in a VOP being filed. 	<ul style="list-style-type: none"> • 1 day of the Juvenile Alternative Work Program (JAWP) within 30 days, or • 15 Community Service Work Hours at 5 hours per month (only if defendant is current with previous court-ordered work hours), or • More restrictive curfew for 30 days.
SCHOOL VIOLATIONS: <i>*The Department of Juvenile Justice must confirm all unexcused absences with the local School Board and provide the necessary documentation prior to seeking an alternative consequence*</i>		
Unexcused Absences	<ul style="list-style-type: none"> • 2 or less unexcused absences within a school year. • Three or more unexcused absences within a school year will result in a VOP being filed. 	<ul style="list-style-type: none"> • More restrictive curfew for 30 days, or • 15 community service hours at 5 hours per month (only if defendant is current with previous court-ordered work hours), or • 1 day of the Juvenile Alternative Work Program (JAWP) within 30 days, or • Restricted from participating in extracurricular sports and/or activities for a specific period, or • Referral to STRIVE Academy or Redirections.
HOME VIOLATIONS:		
Leaving home without permission	<ul style="list-style-type: none"> • First reported incident of leaving home without permission for more than 60 minutes. • A second incident of leaving home without permission for more than 60 minutes that occurs within 12 months of the first reported incident will result in a VOP being filed. 	<ul style="list-style-type: none"> • More restrictive curfew for 30 days, or • 1 day of Juvenile Alternative Work Program (JAWP) within 30 days, or • Placed on an electronic monitor for 30 days.

TYPE OF VIOLATIONS	WHEN ALTERNATIVE CONSEQUENCES PERMITTED	AVAILABLE ALTERNATIVE CONSEQUENCES
NO CONTACT VIOLATIONS: <i>*Violations for contact with victim, co-defendant, or any named person are not eligible for alternative consequences and will result in a VOP being filed with the Court*</i>		
Associating with unauthorized persons	<ul style="list-style-type: none"> • First reported incident of associating with anyone as designated by JPO and parent/guardian or anyone under the supervision of the department and DOC. • A second incident of associating with unauthorized persons will result in a VOP being filed with the Court. 	<ul style="list-style-type: none"> • 2 days of Juvenile Alternative Work Program (JAWP) within 45 days, or • More restrictive curfew for 60 days, or • Possible referral to GRIP (Law Enforcement Gang Resistance Intervention).
TREATMENT/PROGRAM VIOLATIONS: <i>*DJJ shall notify the Court, and copy all parties, if non-compliance is believed to be due to the parent(s) failing to assist the juvenile in obtaining and complying with treatment programs ordered by the Court in the Order of Probation. Upon such notice, the parent(s) will be noticed/summoned to attend a hearing before the Court*</i>		
Non-compliance with treatment programs	<ul style="list-style-type: none"> • First incident of willful non-compliance with treatment programs to include: mental health, substance abuse, STRIVE, Redirections, Second Chance or Impact. • A second incident of willful non-compliance with the treatment program will result in a VOP being filed with the Court. • <u>Note:</u> DJJ shall notify the Court (and copy all parties) if non-compliance is due to a parent failing to assist the juvenile in obtaining and complying with treatment programs ordered by the Court in the Order of Probation. Upon such notice, the parent will be noticed/summoned to attend a hearing before the Court. 	<ul style="list-style-type: none"> • MDT staffing with the youth, guardian, provider to review non-compliance and develop a plan to eliminate any potential barriers to successful completion, or • More restrictive curfew for 60 days, or • Referral to and successful completion of Juvenile Drug Court.
DRUG VIOLATIONS:		
Failure to Pass Urinalysis	<ul style="list-style-type: none"> • First incident of failure to pass urinalysis. • Additional failures to pass urinalysis will result in a VOP being filed with the Court. 	<ul style="list-style-type: none"> • Increased frequency of drug screens, or • Referral to and successful completion of Juvenile Drug Court.
INCENTIVE COMPONENT:		
<ul style="list-style-type: none"> • Courtroom verbal praise and recognition. • One-time permission to extend curfew for special events within the county that the juvenile resides. 		