



## Michigan Supreme Court

State Court Administrative Office

Family Services

**Friend of the Court Bureau**

Michigan Hall of Justice

P.O. Box 30048

Lansing, Michigan 48909

Phone (517) 373-5975

Daniel J. Wright  
Director

### MEMORANDUM

DATE: May 10, 2007

TO: Friends of the Court

cc: Chief Circuit Judges  
Presiding Family Division Judges  
Circuit Court Administrators  
Family Division Administrators

FROM: Daniel J. Wright

RE: SCAO Administrative Memorandum 2007-04  
Case Transfer

---

The State Court Administrative Office (SCAO), and specifically SCAO's Friend of the Court Bureau, develops guidelines for the conduct, operations, and procedures of all friend of the court (FOC) offices. Each FOC must take all necessary steps to adopt office procedures to implement the recommendations of the bureau. [[MCL 552.503\(7\)](#)]

This SCAO memorandum provides guidelines for completing a postjudgment case transfer pursuant to [MCR 3.212](#). Handling these transfers correctly is important because a case transfer may disrupt ongoing motions, hearings, and investigations. MiCSES system issues related to the topic of this memorandum will be addressed by the Office of Child Support.

This Administrative Memorandum replaces Administrative Memorandum 1984-4.

If court or friend of the court staff have any questions, or would like additional information or clarification regarding this memorandum, please contact Angel Sorrells at [SorrellsA@courts.mi.gov](mailto:SorrellsA@courts.mi.gov), Steve Capps at [CappsS@courts.mi.gov](mailto:CappsS@courts.mi.gov), or call 517-373-5975.

#### A. Background

[MCR 3.212](#) governs postjudgment transfers of domestic relations cases. The court rule specifies who may move for a transfer, the conditions for granting a transfer, the contents of a transfer order, the filing fees, and the physical transfer of court files. The rule

governs only transfers between Michigan counties. It does not address interstate case transfers which are governed by the Uniform Interstate Family Support Act.

**1. Definitions of key terms**

- a. Case means both the court file, friend of the court file, or both as the context indicates.
- b. Receiving court means the court to which the case is being transferred.
- c. Transferring court means the court that transfers a case to a receiving court.

**2. Who may initiate a transfer**

After entry of a final order or judgment, [MCR 3.212](#) permits:

- a. Parties to initiate case transfers to a noncontiguous county when none of the parties still reside in the county with jurisdiction over a case.
- b. Friend of the court offices or courts to initiate case transfers to any county, including a contiguous county.

**3. Transfer and venue**

[MCR 3.212](#) states that a transferring case also changes the venue and transfers all friend of the court responsibilities.

**B. Case Transfer Coordination**

When an active case is transferred, the transfer may disrupt investigations, pending motions, and any collection activity. There may also be county-specific activities in the case, such as a bench warrant that commands the sheriff to bring the arrested person before a specific court.

Before ordering a transfer, the transferring court should consult with the FOC to determine whether any such issues must be addressed by the transfer order. The FOC should take the following steps to ensure statewide uniformity and simplify the transfer process.

**1. Case Transfer Coordinator**

Each FOC should designate at least one staff member to serve as the case transfer coordinator (CTC) for that office. The CTC will serve as the contact person for handling all case transfer issues for that FOC office. FOCs may allow the CTC to delegate responsibilities to other FOC staff.

- a. The transferring and receiving counties' CTCs should communicate with one another before the case transfer process starts, and then throughout the process.
- b. Neither a court nor an FOC should initiate a case transfer until after the transferring county's CTC discusses the transfer with the receiving

county's CTC to determine if there are any impediments to transferring the case to that county (e.g., a conflict of interest).<sup>1</sup>

- c. A list of each county's CTC is posted on the [mi-support](#) website.

## 2. **Tasks to be completed before transfer** (see Appendix B)

FOCs should use Appendix B to determine which, if any, outstanding motions, hearings, and similar matters should be resolved or canceled before the case is transferred. The order transferring the case may need to specify what work must be completed before the case is transferred.

- a. Support review - If a support review has been initiated or requested, consider whether it would be best to complete the review before transferring the case.<sup>2</sup>
- b. Parenting time or custody dispute - If a hearing date is scheduled, it may be appropriate to complete the hearing before transferring the case.
- c. Bench warrant hearing - If a party has been arrested on an outstanding bench warrant, the transferring court should complete this hearing before transferring the case.
- d. Show cause hearing - Same as (c) above.

## C. **Motion to Transfer**

### 1. **Form**

Use [FOC 24](#) to file a motion to transfer a case.

### 2. **Motion filed by a party or court-ordered custodian**

- a. Motion Fee

[MCR 2.119\(G\)](#) requires that a motion fee be paid when filing any request for an order in a pending action -- except for a motion to enter an uncontested order under [MCR 2.119\(G\)\(3\)\(e\)](#). [MCL 600.2529](#) establishes a motion fee of \$20. No other fees should be charged at the time a case transfer motion is filed, if no other relief is requested.

---

<sup>1</sup>An example of a conflict of interest is one of the parties is a close relative of an FOC employee or court staff who cannot be removed from the case (e.g., first or second degree relationships).

<sup>2</sup> If the FOC has received proper documentation, has made a recommendation, and a hearing date has been set, it may be best to proceed with the support review hearing before completing the transfer. If the support review process has started, but no documentation has been received by the FOC, completing the transfer immediately may be more appropriate.

b. Other Requirements

In addition to paying the motion fee, a party or court-ordered custodian must satisfy all of the following conditions in order to have a case transferred (see [MCR 3.212\(B\)](#)).

- 1) The transfer request must be based on the residences and convenience of the parties, or for other good cause consistent with the best interest of the minor;
- 2) Neither party nor court-ordered custodian may have resided in the county of current jurisdiction for at least six months prior to filing the motion;
- 3) At least one party or the court-ordered custodian has resided in the county to which the transfer is requested for at least six months prior to the motion filing; and
- 4) The county to which the transfer is requested may not be contiguous to the county of current jurisdiction.

**3. Motion filed by the FOC**

The preceding restrictions on parties and court-ordered custodians who seek a transfer do not apply to FOCs or courts that request or order transfers. However, those restrictions do remain good guidelines for most cases. In addition, courts and FOCs should consider the following factors.

a. Determining whether a case transfer is appropriate (see Appendix A).

Whether a case transfer is appropriate will vary on a case-by-case basis. A case should not be transferred merely to avoid resolving a difficult or contentious matter. Nor should a case be transferred to circumvent the court rule prohibiting a party from requesting a transfer to a contiguous county.

The checklist in Appendix A is designed to help courts and FOCs determine whether a case transfer is appropriate. In addition, courts and FOCs should evaluate the following circumstances.

- 1) Convenience of the parties - A case transfer may provide more convenient services for the family, as when both parties have moved to a noncontiguous county.<sup>3</sup>
- 2) Conflict of interest and disqualification - Court staff or personnel may have a conflict of interest that cannot be resolved without transferring the case.<sup>4</sup>

---

<sup>3</sup> The fact that a party is incarcerated in a county is not generally grounds to transfer a case to that county.

<sup>4</sup> Generally, if a court or FOC is disqualified in a county, both the court case and the FOC case should be transferred. This avoids the problems that occur when (a) a judge is disqualified from hearing the case but still supervises the

- 3) Visiting judge - If a visiting judge has been assigned to the case due to the disqualification of the circuit's judge(s), it often will be best to transfer the case permanently to the visiting judge's home county. But, if the visiting judge sits in a county that is inconvenient for the parties to reach, it may be better to transfer the case to a third county, if at all.<sup>5</sup>
- 4) How long the parties have lived in a new county - Some parties move frequently, so requesting a transfer immediately upon the party's relocation to a new county may be inappropriate. Depending on a particular case's circumstances, it may be best to wait at least six months to determine the stability of the party's new location before requesting a case transfer.
- 5) Arrearage-only case in which all children have emancipated - If the case involves only a residual support and no minor children, the case should not be transferred.

However, extenuating circumstances may make a transfer appropriate. For instance, it may be impossible or very difficult for a party to appear for hearings (e.g., when the noncustodial parent is on parole with geographic restrictions or when all the parties reside long distances from the original circuit).

In a case with extenuating circumstances, the CTCs need to discuss the matter and decide how best to proceed.

b. Considerations for selecting the receiving court (see Appendix C)

When parties reside in multiple counties

There may be several parties to a case, and they may live in different counties. These cases are complicated and require consideration of multiple factors, including: where the parties reside, the age of the youngest child, conflicts with other courts, and whether additional cases involving some or all of the parties are ongoing in other courts. Absent compelling contra-indicating factors, SCAO recommends transferring the case to the county where the parties' youngest child resides a majority of the time.<sup>6</sup>

---

FOC that investigates it, (b) the final judgment enters and postjudgment actions need to be assigned and scheduled by the FOC before a visiting judge, or (c) an FOC needs to schedule matters before a judge in another county. If one court and its FOC handle the entire matter, it alleviates confusion and makes enforcement simpler.

<sup>5</sup> The visiting judge, assigned by SCAO, will make the determination of whether to transfer and if so, to which county.

<sup>6</sup> SCAO suggests transferring the case to the youngest child's county of residence because that is where support and custody issues are likely to continue arising (if at all) for the longest time. If a visiting judge has been assigned to the case, he or she should make the decision whether to disqualify the FOC.

**4. On court's motion**

The court may transfer a case on its own motion. If so, the court should first seek input from its FOC before finalizing the order.<sup>7</sup>

**D. Order**

**1. Form**

Use Form [FOC 25](#) for the order transferring the case.

**2. Costs or fees owed in the initiating jurisdiction**

a. Past-Due Fees

The court may order that any past-due fees and costs be paid to the transferring FOC office at the time of transfer ([MCR 3.212\(C\)\(2\)](#)).<sup>8</sup> An FOC may decide to waive the fees or ask the court to order that the fees be paid to the receiving county's FOC.<sup>9</sup>

b. Filing Fee

Pursuant to MCR 3.212(D), an order transferring a case must require the party who requested the transfer to pay the \$150 statutory filing fee to the receiving court.<sup>10</sup>

- 1) A check, made out to the receiving county, for the filing fee must be sent with the case file(s). The file(s) should not be physically transferred to the receiving county until the filing fee check has been received by the transferring court.
- 2) If the parties stipulate to the transfer, they must share the filing fee equally unless the court orders otherwise.
- 3) If the court or the FOC initiates the transfer, the filing fee is waived (see MCR 3.212).

**3. Cost of transfer**

- a. For party-initiated transfers, [MCR 3.212\(C\)\(3\)](#) states that the court may order that one or both of the parties or the court-ordered custodian pay the cost of the transfer.

---

<sup>7</sup> The court also should consider the issues that are identified by Appendixes A, B, and C. This allows the court to include in its order, any conditions that must be met before the case is transferred (e.g., the completion of hearings or support reviews).

<sup>8</sup> This may be a special instruction payment pursuant to [MCR 3.208](#).

<sup>9</sup> If an FOC allows the past-due fees to be paid to the receiving county, it may not request that the order require those fees be sent back to the transferring county.

<sup>10</sup> [MCR 3.212\(D\)](#) states that the moving party must pay the applicable filing fee, and [MCL 600.2529](#) states that the filing fee is \$150. Receiving courts cannot charge an additional judgment entry fee of \$80; the transferred case does not require the entry of a new judgment but rather is the transfer of an existing one. The motion for transfer does not amend the custody, support, and/or parenting time provisions previously set in the case, so no judgment and order entry fees are required (see [SCAO memorandum dated September 28, 2004](#)).

- b. For court- or FOC- initiated transfers, the court or FOC will pay the cost of the transfer.

#### **4. Actions to be completed before transfer**

SCAO recommends that, whenever possible, the transfer order include provisions for completing any hearings, scheduled reviews, or other matters before the case is transferred.

### **E. Transfer Procedures**

Once a transfer order has been issued, FOCs should take the following actions.<sup>11</sup>

#### **1. Transferring county**

- a. The CTC will evaluate the case and:
  - 1) Review the checklist completed earlier and determine whether any hearings must be conducted or canceled as a result of the transfer;<sup>12</sup>
  - 2) Identify any outstanding bench warrants, unpaid fees, or surcharges;
  - 3) Print a copy of the case file if it has been maintained electronically;
  - 4) Obtain any microfiche records and arrange for them to be shipped with the file;
  - 5) Prepare an affidavit of arrears;
  - 6) Create a payment history for payments made before MiCSES became operational;
  - 7) Identify any income withholding notices (IWN), as these will be maintained throughout the transfer process for the convenience of the parties; and
  - 8) Prepare a letter to the regional office requesting that, when applicable, the assignment of the visiting judge that presided over the case be terminated.<sup>13</sup>

---

<sup>11</sup> For some actions, it may be necessary that the transfer order make provisions for them; otherwise the transferring county might lack jurisdiction to proceed.

<sup>12</sup> Motions involving parenting time and custody issues should be examined closely. If a hearing has begun, SCAO recommends completing the hearing before the transfer occurs.

<sup>13</sup> This letter should be prepared regardless of whether the case is being transferred to the visiting judge's circuit or to another circuit. SCAO recommends that the letter be signed by the transferring county's chief judge and copied to the visiting judge. A copy of this letter should be sent with the case file to the receiving county.

b. Review enforcement activities

1) Show cause

- a) Once a transfer order is issued, do not schedule new show cause hearings in the transferring court.
- b) If a show cause hearing date has already been scheduled, complete that hearing before the transfer.
- c) If an order was recently entered as a result of a show cause hearing, complete the instructions in the order before the transfer.
- d) Bench warrants that have been issued as a result of a show cause hearing will transfer with the case. At the appropriate time, the MiCSES activity chain for the bench warrant will be closed in one county and reopened in the receiving county.<sup>14</sup>

2) License Suspension

This enforcement procedure will continue, as ordered by the court in the transferring county. In MiCSES, it will be closed in the transferring county and reopened in the receiving county after the file is transferred.

If the license suspension is conditional, the conditions will remain unchanged until the receiving court changes them.

3) IWN, credit reporting, financial institution data match (FIDM) liens, liens against real property, performance bonds, tax offsets, and similar enforcement actions will continue by closing down the activity in the transferring county and reopening in the receiving county.<sup>15</sup>

Because a cash performance bond should be held by a third-party financial institution, the CTCs should discuss how best to transfer the bond funds, whether a transfer is necessary under the circumstances, and how to notify the financial institution holding the funds that the case has been transferred.

---

<sup>14</sup> At the appropriate time, the transferring county will shut down its MiCSES activity chain, which will alert LEIN of the closure. In the receiving county, when the MiCSES activity chain is started, this will notify LEIN of the new docket number. Whenever possible, how bench warrants are to be handled should be included in the order (e.g., cancel it and have new county reissue it).

<sup>15</sup> See Appendix D for a model letter to be sent to employers for IWN purposes. In order to prevent employer confusion, this special-purpose letter should be sent in lieu of both the standard IWN cancellation notice from the transferring county and the standard IWN origination notice from the receiving county. The payer and payee should also receive a copy of the letter.



c. Physical transfer of files

[MCR 3.212\(E\)](#) states that the court and FOC files must be transferred by registered or certified mail, return receipt requested, or by another secure method of transfer.

The [Michigan Trial Court Case File Management Standards](#) outline general transfer procedures, including who is responsible for transferring the file and what documents should be included. Only the circuit court clerk can physically send the file to the receiving county.<sup>16</sup>

d. After physical transfer of files

Even after the order to transfer is entered and the files have been physically transferred, the transferring court may receive new pleadings or other case-related documents.

If the file clerk of the transferring court receives any such pleadings or documents, the filing system may indicate that the case has been closed or transferred. The clerk then should check the “register of actions” referenced in the Michigan Trial Court Case File Management Standards to determine whether the case was transferred and to which court.

SCAO recommends that the transferring FOC keep a copy of the case paperwork received and mail the original to the receiving county’s FOC. SCAO also recommends that the transferring FOC keep a copy of the transfer order in an out-sleeve.

## 2. Receiving county

Once the receiving county has received all the case files (usually meaning both the court file and the FOC file) and a case docket number has been assigned, the FOC in the receiving county then becomes responsible for entering all information and enforcement tasks into MiCSES and for sending out all necessary notices. Some examples are listed below.

a. Notify all interested parties of case transfer (see Appendix E)

There may be persons or entities that have specific court-ordered duties related to enforcing the child support order. Others may simply have a legitimate need to know about the case transfer. Those in either group should receive the model notification letter (see Appendix E) along with a copy of the signed [FOC 25](#) changing venue and transferring the case. Once the case is transferred, a notification letter and a copy of the documents that affect them should be sent to the following entities and agencies.

---

<sup>16</sup> The clerk of the transferring court may consider deputizing the CTC to fulfill certain clerk functions in the case transfer process, specifically mailing the FOC file, which otherwise may be done only by the clerk of the court. See [Michigan Trial Court Case File Management Standards](#).

- 1) Secretary of State – order of license suspension
  - 2) Financial institution – instructions regarding a bond to secure future support
  - 3) Attorneys of record
  - 4) Department of Corrections – if a party is incarcerated
  - 5) Work First
- b. Register of Deeds
- If a lien on real property has been recorded in the transferring county, the receiving court may need to rerecord the lien (reciting the fact that the case has been transferred) with its county’s register of deeds.
- c. Before the physical transfer and registration of the case are complete, the receiving court may receive motions or pleadings for the case. This may occur even before the receiving court has assigned a docket number to the case.
- If this occurs, follow the protocol established in the [Michigan Trial Court Case File Management Standards](#) and place the paperwork for the “unidentified” case in a separate location or some type of “group file.”<sup>17</sup>

**F. When the transferring county should close the case in MiCSES**

**1. The transferring county should shut down all open enforcement chains in MiCSES *only when*:**

- a. The receiving court has received the file;
- b. The receiving court has assigned a docket number to the case; and
- c. The CTC in the receiving county contacts the CTC in the transferring county to inform him or her that the file has been received, a case number has been assigned, and the receiving court and FOC are prepared to begin putting information from the file into MiCSES.

Until each of these steps has occurred, the transferring county should leave all enforcement chains open in MiCSES to ensure that enforcement continues throughout the transfer process. This will minimize the time during which no open MiCSES chains exist and no enforcement is occurring.

---

<sup>17</sup> This file can be checked to determine if the case has been assigned a case number. If the motions or pleadings seem to pertain to a case that has a final judgment, SCAO recommends that the receiving court’s file clerk contact the CTC in that county’s FOC office to determine if a case transfer is in progress.

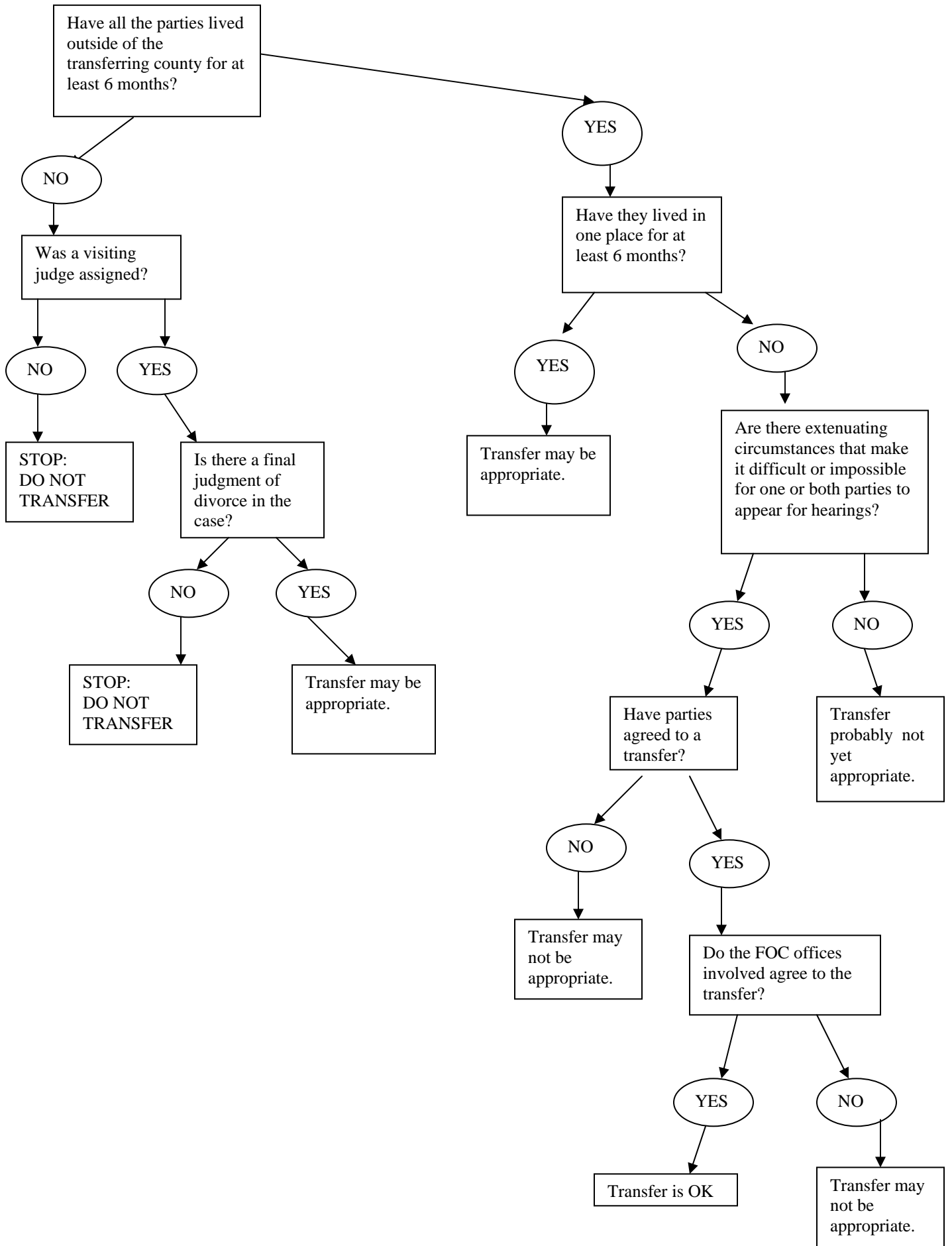
**2. Dates for turning over authority**

The actual transfer of authority over the case (e.g., the duty to enforce the support order) should be completed at the end of a month.<sup>18</sup> For a smooth transition, allow two days for MiCSES to fully implement all enforcement actions.

---

<sup>18</sup> The end of the month as the goal for a case transfer was suggested by the Office of Child Support and MiCSES systems analysts. Issues related to this will be addressed by the Office of Child Support.

**APPENDIX A  
IS A CASE TRANSFER APPROPRIATE**



**APPENDIX B  
COMPLETE BEFORE TRANSFER**

**Support Review**

**YES**

**NO**

<p>1. Has a review been requested? If <b>yes</b>, see below. If <b>no</b>, enter √ to the right.</p> <p>2. Has the information on which to base a recommendation, been requested? If <b>yes</b>, proceed with the review before the transfer. If <b>no</b>, enter √ to the right.</p> <p>3. Has a recommendation been made? If <b>yes</b>, complete the review process before the transfer. If <b>no</b>, enter √ to the right.</p>		
---	--	--

**Bench Warrant**

**YES**

**NO**

<p>1. Is there an outstanding bench warrant that has not been served? If <b>yes</b>, notify the receiving county so that the warrant can be reissued. If <b>no</b>, enter √ to the right.</p>		
---	--	--

**Show Cause**

**YES**

**NO**

<p>1. Has a hearing been scheduled? If <b>yes</b>, complete the hearing before the transfer. If <b>no</b>, enter √ to the right.</p> <p>2. Was a bench warrant issued?</p> <p>3. If <b>yes</b>, has it been served? If <b>yes</b>, then notify the receiving county. If <b>no</b>, enter √ to the right.</p>		
--	--	--

**Parenting Time and/or Custody Hearings**

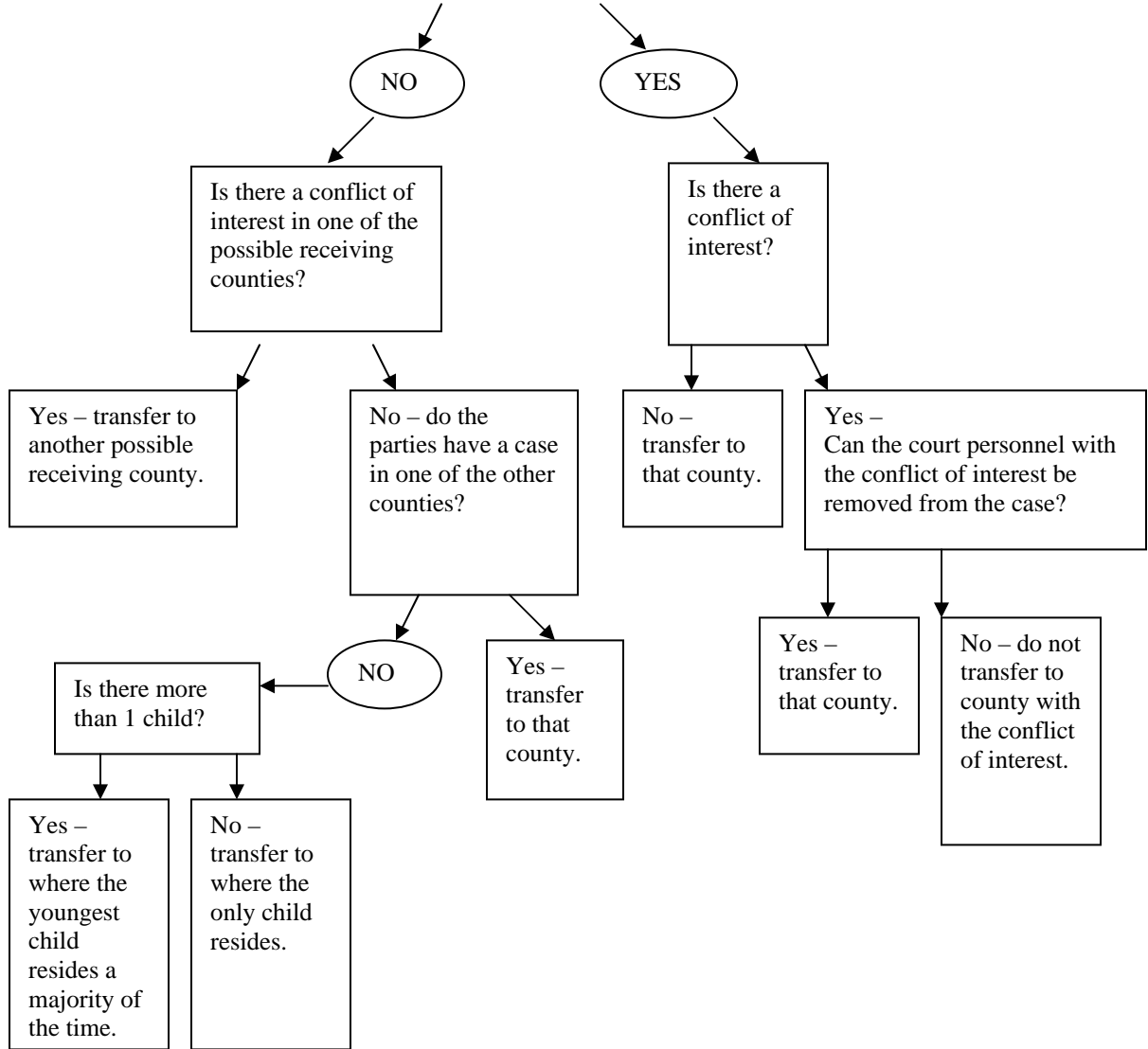
**YES**

**NO**

<p>1. Has a parenting time or custody hearing been requested? If <b>yes</b>, complete the hearing before the transfer. If <b>no</b>, enter √ to the right.</p>		
--	--	--

**APPENDIX C  
WHERE TO TRANSFER**

**Do the parties or court-ordered custodian live in the same county and  
outside of the circuit with original jurisdiction?**



**APPENDIX D  
MODEL LETTER – INCOME WITHHOLDING ORDERS**

Employer Name  
Employer Address  
City, State Zip Code

To Whom It May Concern:

The purpose of this letter is to inform you of a change in the docket identification number that you should use when remitting payments for child support in the friend of the court case involving:

PAYER NAME

Address

City, State Zip code

Previous Docket Number:

New Docket Number:

This court case has been transferred from TRANSFERRING COUNTY to RECEIVING COUNTY. Future friend of the court correspondence will come from RECEIVING COUNTY.

The transfer to RECEIVING COUNTY does not change your income withholding requirements. The amount, currently \$XXX per month, and the method of transferring those funds as indicated in the income withholding notice you received from TRANSFERRING COUNTY dated DATE, YEAR, will remain in effect. However, please make a note in your records that the docket number has changed. When submitting all future payments, please reference the new docket number of #####.

If you have any questions regarding this letter, please contact:

FOC Contact Name  
Address  
City, State Zip Code  
(###) ### - ####

Sincerely,  
FOC

cc: PAYER  
PAYEE  
Attachment: Order

**APPENDIX E**  
**MODEL LETTER – NOTIFICATION OF CASE TRANSFER**

Name  
Address  
City, State Zip Code

To Whom It May Concern:

The purpose of this letter is to inform you of a case transfer involving:

Party's Name  
Address  
City, State Zip code  
Previous Docket Number:  
New Docket Number:

This court case has been transferred from TRANSFERRING COUNTY to RECEIVING COUNTY. Future friend of the court correspondence will come from RECEIVING COUNTY.

The transfer to RECEIVING COUNTY does not change your legal responsibilities pursuant to any order that may have been entered. This letter is intended to inform you of this transfer so that you can update your records. When submitting all future correspondence, please reference the new RECEIVING COUNTY docket number of #####.

If you have any questions regarding this letter or the case, please contact:

FOC Contact Name  
Address  
City, State Zip Code  
(###) ### - ####

Sincerely,

FOC

cc: PAYER  
PAYEE

Attachment: Order to Transfer