



State Court Administrative Office
Trial Court Services
Problem-Solving Courts

Transferring a Case to a Problem-Solving Court

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Introduction

This is a resource to assist trial courts with cases that are transferred to a problem-solving court. It includes three main parts:

1. Transfers of supervision and transfers of jurisdiction;
2. Problem-solving court fees and priority of payment; and
3. Frequently asked questions about transfers of supervision to a problem-solving court.

In this document, the term “transferring court” refers to the court that transfers the case to the problem-solving court. The term “receiving PSC” refers to the problem-solving court program that receives the transfer. The term “receiving court” refers to the district or circuit court of the receiving PSC.

Transfer of Supervision and Transfers of Jurisdiction to a Problem-Solving Court

There are currently two ways under statute to transfer a case to a problem-solving court: (1) transfers of supervision and (2) transfer of jurisdiction. Depending on which transfer method is being used, the process to transfer is different.

Transfers of Supervision to a Problem-Solving Court

The drug treatment court, mental health court, and veterans treatment court statutes authorize courts to transfer supervision of cases to problem-solving courts.¹ For transfers of supervision to a problem-solving court, the State Court Administrative Office (SCAO) recommends that courts follow the below procedures.

1. The transferring court will contact the potential receiving PSC regarding the potential transfer to determine whether the individual will be accepted. Before transferring supervision, the transferring court and receiving PSC should agree on the jail location that the participant would serve any program jail sanctions, when applicable.
2. The transferring court and the receiving PSC will determine whether an individual may be admitted to the program under the eligibility and conditions for admission set forth in the applicable problem-solving court statute. The following circumstances must exist before an individual may be transferred to the receiving PSC:
 - a. A drug treatment court and veterans treatment court may accept participants from any other jurisdiction in Michigan based on either the participant's residence in the receiving PSC's jurisdiction or the unavailability of a drug treatment court or veterans treatment court in the jurisdiction where the participant was charged. The transfer is not valid unless the following individuals agree to the transfer:²
 - i. Defendant;
 - ii. Defendant's attorney;
 - iii. Judges of the transferring court and the receiving PSC; and
 - iv. Prosecutors of the transferring court and the receiving PSC.
 - b. An adult mental health court may accept participants from any other jurisdiction in Michigan based on the participant's residence in the receiving PSC's jurisdiction, the nonavailability of an adult mental health court in the jurisdiction where the participant was charged, and the availability of financial resources to operate the adult mental health court and treatment services.³
 - c. A juvenile mental health court may accept participants from any other jurisdiction in Michigan based on the participant's residence in the receiving PSC's jurisdiction.⁴

¹ See MCL 600.1062 and MCL 600.1070; MCL 600.1091 and MCL 600.1095; MCL 600.1099c and MCL 600.1099h; MCL 600.1201 and MCL 600.1206.

² See MCL 600.1062 and MCL 600.1201.

³ See MCL 600.1091.

⁴ See MCL 600.1099c.

- d. If the individual has been sentenced to a jail term by the transferring court, that sentence should be served in the transferring court's jurisdiction before the case is transferred to the receiving PSC.
3. The transferring court obtains a judicial assignment from their SCAO Regional Office, cross-assigning the problem-solving court judge as a judge of the transferring court.
4. The transferring court enters an order on [MC 394](#) (Order Transferring Supervision to Treatment Court Program), transferring supervision of the case to the receiving PSC.
5. The transferring court's responsibilities:
 - a. Document any bench warrants issued by the problem-solving court judge during the individual's participation in the receiving PSC by entering them into the transferring court's case management system. The problem-solving court judge is acting as a judge of the transferring court by assignment, and as a result, bench warrants are issued out of the transferring court. For example, if a participant fails to appear for a scheduled problem-solving court hearing, a bench warrant will be issued by the problem-solving court judge. The problem-solving court judge holds a hearing on the failure to appear, and if the judge determines that the participant should be discharged from the program, then the problem-solving court judge enters an order discharging the defendant from the program and immediately notifies the transferring court.
 - b. Document any jail sanctions during the individual's participation in the receiving PSC.
 - c. Collect payment for fines, fees, costs (including the receiving PSC's program fee, if any), restitution, and assessments. The transferring court will allocate payments according to the priority of payment. The transferring court will then disburse the receiving PSC's portion of the payment to the receiving court.
 - d. Comply with any agreement made with the individual for final disposition of the case upon successful completion of the receiving PSC.
 - e. Send a copy of the transfer order (form MC 394) to the receiving PSC. Upon request by the receiving PSC's judge, the transferring court sends any other documents from either the case file maintained by the clerk of the court or the probation file to the receiving PSC's judge.
 - f. After receiving [MC 394a](#) from the receiving PSC, the transferring court will file the order and enter the final disposition of the case in the case management system.
6. The receiving PSC's responsibilities:
 - a. Maintain the case in the Drug Court Case Management Information System.
 - b. The receiving PSC should not enter the case as a new filing into the receiving PSC's case management system.
 - c. After the transferring court allocates the payment and disburses the receiving PSC's portion of the payment to the receiving court, the receiving court receipts⁵ the payment. The receiving court would not open a new case in the case management system but instead create a financial record to apply the payments.

⁵ In this document, "receipt" means to enter the payment into the court's case management or accounting system.

- d. Notify the transferring court when the receiving PSC's judge issues a bench warrant.
- e. Upon successful completion or unsuccessful termination, enter an order on MC 394a and provide a copy of the order to the transferring court.
- f. Maintain the receiving PSC's case records according to the Michigan Trial Court Case File Management Standards and the General Records Retention and Disposal Schedule #16 - Michigan Trial Courts. Information protected under 42 CFR, Part 2, and the Health Insurance Portability and Accountability Act is confidential, and confidential records must be kept in a secure room and locked container, with access limited to authorized individuals.
- g. If applicable, the receiving PSC notifies the Secretary of State about updates regarding ignition interlock via [MC 393](#).

Transfers of Jurisdiction to a Problem-Solving Court

MCL 600.1088 allows a case to “be transferred totally from 1 court to another court for the defendant’s participation in a state-certified treatment court.” A transfer under this section means that the transferring court is transferring jurisdiction of the entire case to the receiving PSC. The transfer of jurisdiction may occur before or after adjudication. The transfer is not effective until the courts complete a memorandum of understanding under MCL 600.1088. The MOU must be approved by the chief judge and assigned judge of both courts, a prosecuting attorney from both courts, and the defendant. A template of this MOU can be found [here](#).

Problem-Solving Court Fees and Priority of Payment

Problem-solving court participant fees are subject to the priority of payment under MCL 775.22 and MCL 712A.29. “Priority of payment” refers to the way that collection of fines, fees, costs, restitution, assessments, and other payments are allocated under statute.

More specifically, under MCL 775.22 and MCL 712A.29, 50% of all money collected is applied to victim payments. Victim payments are defined as victim restitution and crime victim’s rights assessment. The remaining 50% is applied in the following order:

- (a) Minimum state cost.
- (b) Other costs.
- (c) Fines.
- (d) Probation or parole supervision fees.
- (e) Assessments and other payments, which includes third-party restitution.

“Other costs” include attorney fees, court costs, and problem-solving court participant fees. The court determines the order of priority within the “other costs” category.

There are three main contexts regarding problem-solving court fees and priority of payment:

- 1. Problem-solving court fees regarding a non-transfer case;
- 2. Problem-solving court fees regarding a transfer of supervision to the receiving PSC; and
- 3. Problem-solving court fees regarding a transfer of jurisdiction to the receiving PSC.

PSC Fees Regarding a Non-Transfer Case

In a problem-solving court case that does not involve a transfer, the problem-solving court fee is paid to the court, and the court allocates the payment according to the priority of payment.

PSC Fees Regarding Transfers of Supervision to the Receiving PSC

In a case where supervision has been transferred to the receiving PSC, the transferring court imposes the PSC fee (if any), and the PSC fee is paid to the transferring court. The transferring court allocates the payment under the priority-of-payment statute. As payments are applied to the case in order of priority, the transferring court will forward the receiving PSC’s portion of the payment to the receiving court.

PSC Fees Regarding Transfers of Jurisdiction to the Receiving PSC

In a case where jurisdiction has been transferred to the receiving PSC, the process regarding priority of payment depends on whether it was a predisposition or postdisposition transfer of jurisdiction.

In a predisposition transfer of jurisdiction, the receiving court is the sentencing court. In this instance, the receiving PSC judge imposes the PSC fee, and the PSC fee is paid to the receiving court. The receiving court allocates the payment according to the priority of payment. The receiving court also disburses any financial obligations collected that are due to the transferring court, such as attorney fees if an attorney provided legal assistance at the transferring court.

In a postdisposition transfer of jurisdiction, the transferring court is the sentencing court. In this instance, the transferring court imposes the PSC fee. Before the sentencing occurs and before the PSC fee is imposed, it is critical that the receiving PSC notifies the transferring court of the PSC fee amount so that the PSC fee is included on the judgment of sentence. If the PSC fee is not assessed at sentencing, then there is no authority to later assess the PSC fee or to change the judgment of sentence. The PSC fee is then paid to the receiving court, and the receiving court allocates the payment according to the priority of payment. The receiving court also disburses any financial obligations collected that are due to the transferring court, such as attorney fees if an attorney provided legal assistance at the transferring court.

For additional information, please refer to the [resources](#) regarding priority of payment in a felony case, statute misdemeanor case, and ordinance misdemeanor case.

FAQ Regarding Transfers of Supervision to a Problem-Solving Court

- 1. Q: If jurisdiction remains in the transferring court, does the receiving PSC judge have authority over the case?**

A: The receiving PSC judge has authority over the case only if they are cross-assigned as a judge in the transferring court as part of the transfer of supervision. The transferring court retains jurisdiction. Once the transfer of supervision is completed and the receiving PSC judge has been cross-assigned, they can sanction, award incentives, issue bench warrants, and authorize jail time.
- 2. Q: Where does the defendant serve up-front jail?**

A: The defendant serves up-front jail in the jurisdiction of the transferring court, and then they are transferred to the receiving PSC.
- 3. Q: Where does the defendant serve in-program jail?**

A: Before completing the transfer, the transferring court and receiving PSC should have an agreement in place regarding where jail sanctions will be served.
- 4. Q: Who identifies a defendant for transfer to a problem-solving court?**

A: Anyone involved in the case at the transferring court can identify a particular defendant as a potential candidate for a problem-solving court program, but most commonly, this is something that the defense attorney or probation officer identifies.
- 5. Q: Does the transferring court need to prepare a presentence investigation report and assessment if the case is going to be transferred?**

A: This is up to the sentencing judge in the transferring court. They might want their probation staff or assessment officer to perform the presentence investigation report and assessment before they sentence. Alternatively, they might feel comfortable with the defendant going to the receiving PSC to be screened and assessed; that report should then be forwarded to the transferring court before sentencing. The receiving PSC will need to assess the defendant to ensure program eligibility.

6. **Q: Since the receiving PSC performs a screening/assessment to verify eligibility, can they run LEIN?**
- A:** The receiving PSC should not run a Law Enforcement Information Network (LEIN) check until supervision has been transferred to the receiving PSC. Before the transfer, SCAO recommends that the transferring court run any necessary check through LEIN and either securely fax it to the receiving PSC staff (see LEIN manual for description of “secure fax”) or disseminate any relevant information over the phone if appropriate.
7. **Q: What if the receiving PSC refuses to grant a restricted driver’s license with interlock?**
- A:** Before the transfer occurs, the transferring court and/or defense counsel should verify whether the receiving PSC grants restricted driving privileges and be aware of the criteria.
8. **Q: What if the defendant is on both MDOC probation/parole and receiving PSC supervision?**
- A:** If the defendant is on both Michigan Department of Corrections (MDOC) probation/parole and receiving PSC supervision, the defendant will need to complete MDOC requirements in addition to any receiving PSC requirements. Some local MDOC offices will not require the defendant to perform duplicate activities (such as substance abuse testing or treatment) and will accept proof of compliance from the receiving PSC. Others might still require the defendant to meet both the requirements of MDOC and the receiving PSC. In any event, communication is important when a defendant is on MDOC probation/parole. For example, if they violate the terms of MDOC probation, they could be incarcerated despite positive progress in the receiving PSC.
9. **Q: Who agrees to the transfer?**
- A:** The judge, defense attorney, prosecutors from the transferring court and the receiving PSC, and the defendant agree to the transfer. Documenting the agreement in writing is suggested but not mandatory.
10. **Q: Who accepts the plea?**
- A:** The transferring court accepts a guilty plea, a no-contest plea (in mental-health court), or admission of responsibility (in a juvenile case).

- 11. Q: What if the case is granted special status, such as under MCL 333.7411, MCL 762.11 (HYTA), etc.?**
- A:** At the sentencing hearing, the judge may defer proceedings under MCL 769.4a, MCL 762.11 (Holmes Youthful Training Status (HYTA)), MCL 333.7411, or any other deferred act; delay sentencing under MCL 771.1; or proceed to sentencing and place the defendant on probation in the receiving PSC with terms and conditions.
- 12. Q: Who fills out form MC 394?**
- A:** The transferring court fills out MC 394, maintains the original version in the court file, and sends a copy of it to the receiving PSC for their records. Please see the distribution list at the top of the form, which tells courts exactly where copies need to go.
- 13. Q: Who is responsible for obtaining a cross-assignment?**
- A:** After the transferring court has obtained a judicial assignment from their SCAO Regional Office, the transferring court enters the cross assignment into the Michigan Court Application Portal (MCAP) and cross-assigns the receiving PSC judge as a judge of the transferring court for the purposes of supervision for that specific case only. This authorizes the receiving PSC judge to act as a judge in the transferring court.
- 14. Q: At what point in the process must a receiving PSC fee be assessed?**
- A:** If a receiving PSC fee is going to be assessed, the receiving PSC fee must be assessed at the time of sentencing. If the receiving PSC fee is not assessed at sentencing, then there is no authority to later assess the receiving PSC fee or to change the judgment of sentence. Before sentencing, the receiving PSC must advise the transferring court of any PSC fees and the amount of the PSC fees to ensure that the PSC fees are included on the judgment of sentence.
- 15. Q: Does the receiving PSC enter a new case into their case management system?**
- A:** No. It is not a new filing or new case. The receiving PSC should only be using the cash system and scheduling function within their case management system. Please see the JIS (Judicial Information Systems) print screens, which provide step-by-step procedures for the case function on a case that is not entered. It also instructs a court on how to schedule a case for a hearing.

- 16. Q: What if the receiving PSC enters the case into their case management system?**
- A:** If the receiving PSC enters the case, it counts as a case in the transferring court for audit purposes and in the receiving PSC court as a new filing. This might create an issue because, if entered into the receiving PSC's case management system, the case could get abstracted to the Secretary of State (SOS) again and might cause a duplicate entry on the defendant's driving record and possibly in the Criminal History Record (CHR).
- 17. Q: Can the receiving PSC sentence to jail on a sanction?**
- A:** The receiving PSC judge has authority through the cross-assignment to sanction, award incentives, and sentence to jail on a sanction.
- 18. Q: Who authorizes bench warrants?**
- A:** The receiving PSC judge can sign bench warrants as a judge of the transferring court, but bench warrants are issued by the transferring court. Once signed, the transferring court maintains the bench warrant because it is the court of jurisdiction. The transferring court enters the warrant using their Originating Agency Identifier (ORI).
- 19. Q: What happens when the defendant is arrested on the bench warrant?**
- A:** If a defendant is arrested on a bench warrant, the arresting agency contacts the transferring court because it is their ORI on the warrant. The arraignment is in front of the transferring court, and the transferring court has authority to handle the case however it wants. If the receiving PSC no longer agrees to supervise the case, it is transferred back to the transferring court to impose a sentence. MC 394a might or might not have been done when the bench warrant was issued. If the receiving PSC decides that it would like to continue supervising the defendant, then the transferring court can instruct the defendant to report to the receiving PSC program. Communication between the two courts is essential in situations like this.
- 20. Q: What if the receiving PSC unsuccessfully discharges the defendant?**
- A:** The receiving PSC judge orders the defendant to report to the transferring court. The receiving PSC completes form MC 394a and sends it to the transferring court for sentencing or other action by the original transferring court judge. If the defendant had a restricted license, the receiving PSC needs to send [MC 393](#) to SOS so that it is aware that the defendant did not complete the receiving PSC program.

21. Q: What happens when the receiving PSC participant is discharged?

A: The receiving PSC discharges the defendant using form MC 394a. This form is sent to the transferring court to show that the defendant has been either successful or unsuccessful. The transferring court honors any plea agreements (for example, MCL 333.7411, MCL 771.1, etc.). The receiving PSC notifies SOS if the defendant was on a restricted license ([MC 393](#)).

If you have any questions, contact TrialCourtServices@courts.mi.gov.