

16th Judicial Circuit Court– Transfer Policy and Procedures

Transfers of Supervision to a Problem-Solving Court

The 16th Judicial Circuit Specialty Court statutes authorize courts to transfer supervision of cases to problem-solving courts (PSC). The 16th Judicial Circuit Court adopted the procedures that the State Court Administrative Office (SCAO) recommends. Please review the following in its entirety.

1. Complete the 16th Circuit Treatment Court application and transfer sheet, including all required signatures by the transferring court. Submit the applicants completed PSI and criminal history when available. A determination will not be made until reviewed. You may submit any other documents pertaining to the applicants, if desired.
2. If approved to participate in a 16th Judicial Circuit Specialty Court Program and before transferring supervision, the transferring court and the 16th Judicial Circuit Specialty Court will need to agree on the jail location that the participant would serve any program jail sanctions, when applicable.
3. The transfer is not valid unless the following individuals agree to the transfer:
 - a. Defendant
 - b. Defendant's attorney
 - c. Judge of transferring court
 - d. Judge of receiving treatment court
 - e. Prosecutor of transferring court
 - f. Prosecutor of the receiving treatment court

Please note: 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 16th Judicial Circuit Court.

4. The transferring court obtains a judicial assignment from their SCAO Regional Office, cross-assigning the specific treatment court judge as a judge of the transferring court.
5. 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.

After the judicial assignment and MC 394 is obtained and sent to the 16th Judicial Circuit Court, please contact the program coordinator for the applicant/participants date to report to their initial treatment court session. Please provide this date with given instructions at their sentencing. Sentencing should be scheduled as close to this date as possible to avoid lapse in supervision.

16th JUDICIAL CIRCUIT COURT SPECIALTY COURTS

TRANSFER REFERRAL FOR CONSIDERATION

* Please include completed application with this form *

Name: _____ Maiden Name: _____

Date: _____ Case No: _____

Address: _____ City, State, Zip: _____

Phone: _____ Alt Phone: _____

DOB: _____ DLN: _____

Assigned Judge: _____ Referring Court: _____

Offense: _____

Probation end date: _____

APA / City Attorney: _____ Phone: _____

Defense Attorney: _____ Phone: _____

The 16th Judicial Circuit Court will notify the transferring Court whether or not the defendant has been accepted into the program by email.

Referral approved by transferring court:

Judge's Name Judge's Signature Date

Prosecutor's Name Prosecutor's Signature Date

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.