

**Problem-Solving Court
Transfers Between Counties:
Overcoming Barriers in Order
to Service More Participants**

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LEARNING OBJECTIVES

After the session, attendees will be able to:

- Identify situations in which transfers to or from their problem-solving courts might be appropriate and manageable
- Recognize potential barriers to transfers and develop plans to address those barriers
- Formulate policies to facilitate problem-solving court transfers to and from other counties

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SLIDO QUESTION 1

What is your role on your Problem-Solving Court Team?

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SLIDO QUESTION 2

What type of problem-solving court are you involved with? Drug court, DUI court, Hybrid, Veterans, Mental Health, and if you work with more than one, just put multiple.

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QUESTION

What is the population size of the county in which you work? If you work in more than one, I guess you can just pick one:

- A. Less than 25,000
- B. 25,000-50,000
- C. 50,000-100,000
- D. over 100,000

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SLIDO QUESTION 3

Which most accurately describes your court's experience in transferring participants with other counties' problem-solving courts?

- A. Never done it and never considered it
- B. Never done it but am interested in learning how
- C. Have done it on rare occasions
- D. Have done it often

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SCENARIO 1

Roger "Verbal" Kint is arrested in your county for a Class 3 Possession of Methamphetamine charge. He is referred to your drug court, scores high risk on the ARA-CST and is found to have a high need of treatment on a clinical assessment. He has no current ineligible charges or past convictions that disqualify him and the team is prepared to accept him. However, it is brought to the team's attention that he resides just across the county line and your Policies and Procedure do not allow you to take non-county residents. You:

1. Make an exception and accept him into your court anyway. OR
2. Change your policies and so that you accept non-residents (remembering, of course, to send a Notice of Substantive Change to AOIC). OR
3. Contact the adjoining county (his county of residence), which has a drug court, and attempt to work out a transfer so that they accept Kint into their drug court.

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SCENARIO 2

Michael McManus has been a participant of your Veteran's Court for several months. After a rocky start, he did well and made significant progress until a breakup with his girlfriend started a downward trend. On treatment's recommendation, he was directed to residential treatment in another county, followed by a six-month stay at an affiliated sober living home. He is a leader at the sober living home, has a good job, and wants to stay in that community. That county has a veteran's court and McManus wants to know if his Veteran's Court probation can be transferred there. You:

1. Require him to return to your county so he can be supervised, treated, and tested by your court. OR
2. Graduate him early because he seems to be doing well. OR
3. Contact the other county's veteran's court about a transfer, offering to accept one of their veteran's court-eligible residents in the future if they will accept a transfer of McManus (agreeing to throw in a late round draft pick and a participant to be named later, if necessary).

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SCENARIO 3

You are contacted by an adjoining county and advised that Fred Fenster, one of your county's residents, was arrested in that county and is eligible for their mental health court. A brief investigation reveals Fenster is eligible for your mental health court, as well. The adjoining county asks if your MHC would accept a transfer, if they were to admit him into their MHC. You agree, they admit him, and they transfer him. However, questions begin to arise.

1. Both counties charge a probation fee for MHC. Who does Fenster pay it to?
2. Your MHC has a curfew in early phases. The originating county does not. Fenster doesn't think he should be bound by it because he didn't agree to it when he entered his plea there. Is he?
3. Because of repeated violations, including an altercation with another participant, Kobayashi, he eventually works his way up to a 48-hour jail sentence. Your sheriff says his jail is full and wants to know why he has to find room for another county's charge. Where does Fenster serve his 48 hours?
4. Although Fenster has many struggles, including positive drug tests and missed appointments, you continue trying to help him through the program. However, you learn the State's Attorney in the originating county has filed to revoke his probation because of the positive tests and missed appointments. Can that SA do that?
4. Later, your court is ready to discharge him unsuccessfully. How does that work?

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Potential Barriers

- Conceptual (county resources for non-county residents or dealing with other county's charges)
- Capacity
- Procedural questions
 - whose policies and procedures (rules)?
 - where are jail sanctions (imposed judiciously and sparingly, of course) served?
 - if fees are assessed, to whom are they paid?
- Handling of the file by the circuit clerk's office
- Ensuring that there is no lapse of treatment and supervision
- Procedure upon unsuccessful termination
- Clarification of roles and jurisdiction of each county
- Protecting the Participant's due process rights throughout the process

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IT HAS BEEN DONE!

STATUTORY REGULATION:

Florida: Title 47, Chapter 948, Section 910.035

Alabama: Title 12, Chapter 23A, Section 12-23A-8

Illinois has tried: 102nd General Assembly (2021 and 2022): SB 3449 and 103rd General Assembly (2023 and 2024): SB 1346

TREATMENT COURT RULES

Indiana: Indiana Problem-Solving Court Rule 26

INTRACIRCUIT TRANSFERS

2nd Circuit and elsewhere

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POSSIBLE WORKAROUNDS

Statute

Protocol or Procedure

MOU

Order(s)

Letter

Making a record/signature

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PROCEDURE CONSIDERATIONS



- Level of formality (Order, MOU, letter)
- Initial contact between Coordinators of proposed transfers and acceptance/declination
- Mechanism to ensure and document that the participant is aware and accepts receiving PSC's requirements
- Signing of MOU to address potential issues
- Pre-admission procedure and post-admission procedure

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SAMPLE PROCEDURE-BEFORE ADMISSION

SAMPLE INTER-COUNTY PROBLEM SOLVING COURT TRANSFER PROCEDURE (BEFORE ADMISSION)

1. Upon referral of a resident of another county that has a Problem Solving Court (PSC), the original county (hereafter, "sending county") will conduct its normal procedures and criminal history checks to determine if the defendant is eligible and qualified for its PSC. If the defendant is eligible, the coordinator from the sending county will consult with the coordinator of the county of the defendant's residence (hereafter, "receiving county") to notify them of the proposed transfer.
 2. If the receiving county is willing to consider accepting the transfer, the coordinator will send a copy of the PSC Handbook and a request for any additional information to the sending county in a timely fashion. The sending county coordinator will provide the Handbook to the defendant and the defendant's attorney and will provide the requested information to the receiving county coordinator in a timely fashion.
 3. If the transfer is approved by the defendant and by the receiving county, a Memorandum of Understanding (MOU) will be entered into between the PSCs.
 4. Simultaneously with the entering into of the MOU, the sending court will arrange for the entry of the participant into the PSC.
 5. Upon entry into the sending county's PSC, the participant will be given a date to report to the coordinator of the receiving PSC.
 6. (The PSC judge of the sending court will enter an Agreed Order of transfer to transfer the case to the PSC of the receiving court.)
 7. If the participant successfully completes the receiving PSC's program, the participant will be deemed to have completed the sending county's program and be entitled to all benefits, including any rights of dismissal and expungement.
- If the participant is unsuccessfully discharged from the receiving PSC's program, the results will be as determined in the MOU agreed upon between the PSCs.

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SAMPLE PROCEDURE-AFTER ADMISSION

SAMPLE INTER-COUNTY PROBLEM SOLVING COURT TRANSFER PROCEDURE (AFTER ADMISSION)

1. When a Problem Solving Court (PSC) participant has changed their place of residence or wishes to change their place of residence and wishes to transfer their PSC program to another county, the participant may submit a request to transfer in writing.
 - a. Upon receiving a request to transfer, the coordinator of the original county (PSC, "sending county") will consult with the coordinator of the county to which the participant wishes to transfer (hereafter, "receiving county") to notify them of the proposed transfer.
 - b. If the receiving county is willing to consider accepting the transfer, the coordinator will send a copy of the PSC Handbook and a request for any additional information to the sending county in a timely fashion. The sending county coordinator will provide the Handbook to the defendant and the defendant's attorney and will provide the requested information to the receiving county coordinator in a timely fashion.
2. If the transfer is approved by the defendant and by the receiving county, a Memorandum of Understanding (MOU) will be entered into between the PSCs.
3. Upon entry into the sending county's PSC, the participant will be given a date to report to the coordinator of the receiving PSC.
4. (The PSC judge of the sending court will enter an Agreed Order of transfer to transfer the case to the PSC of the receiving court.)
5. If the participant successfully completes the receiving PSC's program, the participant will be deemed to have completed the sending county's program and be entitled to all benefits, including any rights of dismissal and expungement.
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MEMORANDUM OF UNDERSTANDING CONSIDERATIONS

- Who signs?
- Whose policies and procedures?
- Fees
- Jail sanctions
- Pre-admission procedure
- Roles of sending county after acceptance (role of SA)
- Procedure upon decision to discharge unsuccessfully

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SAMPLE ORDER

AGREED ORDER OF TRANSFER

On request of the defendant, _____, that his/her/their problem-solving court probation be transferred to _____ County because _____
() he/she/they is/are a resident of that county
() he/she/they is/are presently residing or wish to reside in that county
And, further, defendant has acknowledged in writing that he/she has read and understands the Policies and Procedures of the receiving court and agrees to abide by the rules and procedures of the receiving county's problem-solving court's program,
It is hereby ordered that defendant's problem-solving court probation be transferred to _____ county.
Subject matter and personal jurisdiction of this case is transferred for supervision, which includes but is not limited to monitoring the defendant's compliance with the Policy and Procedures, rewards, sanctions, and service adjustments while in the problem-solving court. This court shall maintain jurisdiction of the case for final disposition.
(The Clerk of the Circuit Court for _____ County is directed to send a copy of this Order to the Clerk of the Circuit Court for _____ County.)

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SAMPLE ORDER-ALTERNATE

RECOMMENDATION FOR REFERRAL

The above-named defendant has been accepted by the _____ court and has requested that supervision of his problem-solving court probation be transferred to _____ court. Reasons for request are the court's location in the case, it is the recommendation of the court that the Court issue an order for transfer between problem-solving courts. Said transfer would be for supervision and problem-solving court proceedings only, with final jurisdiction to be retained by this court.

Dated: _____
Coordinator

ORDER FOR TRANSFER BETWEEN PROBLEM-SOLVING COURTS

It is hereby ordered that defendant's problem-solving court probation be transferred to _____ county.
Subject matter and personal jurisdiction of the case is transferred for problem-solving court supervision which includes, but is not limited to, monitoring the defendant's compliance with the Policies and Procedures, rewards, sanctions and service adjustments. This court shall maintain jurisdiction of the case for final disposition.
IT IS FURTHER ORDERED that the defendant shall report to the _____ Court on _____ at _____ pm.
(The Clerk of the Circuit Court for _____ County is directed to send a copy of this Order to the Clerk of the Circuit Court for _____ County.)
Entered this _____ of _____, 20____.

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Problem-Solving Court Transfers Between Counties

FINAL THOUGHTS



CONTACT INFORMATION

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