



Michigan Supreme Court
State Court Administrative Office
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Thomas P. Boyd
State Court Administrator

MEMORANDUM

DATE: October 3, 2023

TO: Circuit, Probate, District, and Municipal Court Judges
Court Administrators
PSC Coordinators

FROM: Thomas P. Boyd, State Court Administrator

RE: Transfers to Problem-Solving Courts

Several courts have inquired as to the correct process for transferring a case for participation in a problem-solving court (PSC). MCL 600.1088 is the only mechanism providing legal authority to transfer a problem-solving court case from one court to another. There is no other means of transferring a case.

As described below, certified problem-solving courts may accept participants without transfer of case or jurisdiction under MCL 600.1062(4), MCL 600.1201(4), MCL 600.1091(2), and MCL 600.1099c(2), respectively. Judicial assignments for the purpose of PSC participation will no longer be approved.

Transfers Under MCL 600.1088

MCL 600.1088 provides that a case may be “transferred totally” from one court to another for a defendant’s participation in a state-certified treatment court. This transfer may occur before or after adjudication, but requires the execution of a memorandum of understanding (MOU) that includes, but is not limited to, the following components:

- (1) **Funds:** A detailed statement of how all funds assessed to the defendant will be accounted for, including the possibility of the receiving PSC to collect funds and remit them to the court of original jurisdiction.
- (2) **Reporting Requirements:** A statement providing which court is responsible for providing information to the Michigan State Police, as required under MCL 28.243, and forwarding an abstract to the secretary of state for inclusion on the defendant’s driving record.
- (3) **Sanctions:** A statement providing where jail sanctions or incarceration sentences would be served, if applicable.
- (4) **Eligibility:** A statement that the defendant has been determined eligible by and will be accepted in the PSC upon transfer.

- (5) **Approval:** The approval of (1) the chief judge and assigned judge of the receiving PSC and the court of original jurisdiction; (2) a prosecuting authority from the receiving PSC and the court of original jurisdiction; and (3) the defendant.

PSC Acceptance Without Jurisdiction – No Case Transfer

The statutory excerpts below identify the respective authorities for each type of PSC program to accept a participant from another jurisdiction. However, the ability to accept participants for each of these programs does not transfer jurisdiction. Unless a memorandum of understanding made under MCL 600.1088 provides otherwise, *the originating court maintains jurisdiction and all legal authority over the participants*. The problem-solving court accepting the participant has no jurisdiction or legal authority over the participant or case.¹

This means the problem-solving court judge would not have legal authority to:

- Impose, collect, or distribute fines, costs, or assessments.
- Maintain the Register of Actions.
- Compel the defendant’s appearance.
- Take action (including issuance of bench warrants) for the defendant’s non-appearance.
- Issue any other orders, warrants, summons, notices to appear, or other court documents (including probation violations, imposing sanctions, amendments to probation, and revocations or discharges from probation).

Under this scenario, the problem-solving court would be required to communicate all recommended orders, warrants, summons, notices to appear, or other court documents (including probation violations, imposing sanctions, amendments to probation, and revocations or discharges from probation) to the court of jurisdiction, which would also retain legal authority to decline the recommended actions. The following list is not exhaustive, but identifies many of the judicial responsibilities that would remain with the court of jurisdiction:

- Imposing, collecting, or distributing fines, costs, or assessments.
- Maintaining the Register of Actions.
- Compelling the defendant’s appearance.
- Taking action (including issuance of bench warrants) for the defendant’s non-appearance if the court of jurisdiction determines appropriate.
- Issuing any other orders, warrants, summons, notices to appear, or other court documents (including probation violations, imposing sanctions, amendments to probation, and revocations or discharges from probation), if the court of jurisdiction determines appropriate.

Given the frequency of PSC interactions with participants, this option requires the original and receiving jurisdiction to remain in nearly constant coordination, communication, and agreement.

<p style="text-align: center;">Drug Courts</p> <p>MCL 600.1062(4): A court that has adopted a drug treatment court under this section may accept participants from any other jurisdiction in this state based upon either the residence of the participant in the receiving jurisdiction or the unavailability of a drug treatment court in the</p>

¹ Veterans Treatment Courts do have limited jurisdiction over a participant accepted from another court to impose sentence, including, but not limited to, sanctions, incentives, incarceration, and phase changes. MCL 600.1201(4)

jurisdiction where the participant is charged. The transfer is not valid unless it is agreed to by all of the following:

- (a) The defendant or respondent.
- (b) The attorney representing the defendant or respondent.
- (c) The judge of the transferring court and the prosecutor of the case.
- (d) The judge of the receiving drug treatment court and the prosecutor of a court funding unit of the drug treatment court.

MCL 600.1070(2): Unless a memorandum of understanding made pursuant to section 1088 between a receiving drug treatment court and the court of original jurisdiction provides otherwise, the original court of jurisdiction maintains jurisdiction over the drug treatment court participant as provided in this act until final disposition of the case, but not longer than the probation period fixed under section 2 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.2. In the case of a juvenile participant, the court may obtain jurisdiction over any parents or guardians of the juvenile in order to assist in ensuring the juvenile's continued participation and successful completion of the drug treatment court, and may issue and enforce any appropriate and necessary order regarding the parent or guardian of a juvenile participant.

Veterans Treatment Courts

MCL 600.1201(4): A court that has adopted a veterans treatment court under this section may accept participants from any other jurisdiction in this state based upon either the residence of the participant in the receiving jurisdiction or the unavailability of a veterans treatment court in the jurisdiction where the participant is charged. The transfer can occur at any time during the proceedings, including, but not limited to, prior to adjudication. **The receiving court shall have jurisdiction to impose sentence, including, but not limited to, sanctions, incentives, incarceration, and phase changes.** A transfer under this subsection is not valid unless it is agreed to by all of the following:

- (a) The defendant or respondent.
- (b) The attorney representing the defendant or respondent.
- (c) The judge of the transferring court and the prosecutor of the case.
- (d) The judge of the receiving veterans treatment court and the prosecutor of a court funding unit of the veterans treatment court.

MCL 600.1206(2): Unless a memorandum of understanding made pursuant to section 1088 between a receiving veterans treatment court and the court of original jurisdiction provides otherwise, the original court of jurisdiction maintains jurisdiction over the veterans treatment court participant as provided in this act until final disposition of the case, but not longer than the probation period fixed under section 2 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.2.

Mental Health Courts

MCL 600.1091(2): A court that has adopted a mental health court under this section may accept participants from any other jurisdiction in this state based upon the residence of the participant in the receiving jurisdiction, the nonavailability of a mental health court in the jurisdiction where the participant is charged, and the availability of financial resources for both operations of the mental health court program and treatment services. A mental health court may refuse to accept participants from other jurisdictions.

MCL 600.1095(2): Unless a memorandum of understanding made pursuant to section 1088 between a receiving mental health court and the court of original jurisdiction provides otherwise, the original court of jurisdiction maintains jurisdiction over the mental health court participant as provided in this chapter until final disposition of the case, but not longer than the probation period fixed under section 2 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL 771.2.

Juvenile Mental Health Courts

MCL 600.1099c(2): A court that has adopted a juvenile mental health court under this section may accept participants from any other jurisdiction in this state based upon the residence of the participant in the receiving jurisdiction. A juvenile mental health court may refuse to accept participants from other jurisdictions.

MCL 600.1099h(b): Unless a memorandum of understanding made pursuant to section 1088 between a receiving juvenile mental health court and the court of original jurisdiction provides otherwise, the original court of jurisdiction maintains jurisdiction over the juvenile mental health court participant as provided in this chapter until final disposition of the case. The court may receive jurisdiction over the juvenile's parents or guardians under section 6 of chapter XIIA of the probate code of 1939, 1939 PA 288, MCL 712A.6, in order to assist in ensuring the juvenile's continued participation and successful completion of the juvenile mental health court and may issue and enforce any appropriate and necessary order regarding the parent or guardian.

NOTE: Forms MC 394 (Order Transferring Supervision to Treatment Court Program) and MC 394a (Order of Discharge from Treatment Court Program) were taken down in 2022. These forms are no longer SCAO approved and must not be used. There is no authority for their continued or future use.

Caseload Reporting and Financial Distributions

The SCAO is currently reviewing the caseload reporting instructions for new filings, case types, disposition codes, and case age to ensure they appropriately reflect case transfers under MCL 600.1088. Additionally, the SCAO is reviewing and updating instructions regarding the distribution of financial assessments paid by a PSC participant on a case transferred under MCL 600.1088. This information will be made available in the coming weeks.

Please contact your [regional administrator](#) with any questions regarding PSC transfers under MCL 600.1088.