

Purpose: To provide all local community-based probation and pretrial services agencies with a consistent and uniform procedure for transferring supervision cases from agency to agency. These guidelines are to be a part of the operating procedures regarding the transfer of cases. They do not replace the standards but simply establish a baseline standard operating procedure. Agencies must develop additional standard operating procedures (SOPs) for such things as designated agency contact and person responsible for approvals, etc.

Related Standard: Department of Criminal Justice Services *Minimum Standards for Local Community Corrections and Pretrial Services*, §5.1

Definitions:

- **Sending Agency:** The community-based probation or pretrial services agency that serves the court of origin and which is transferring or sending case supervision to a corresponding program in another jurisdiction
- **Receiving Agency:** The community-based probation or pretrial services agency that has agreed to supervise a case in their jurisdiction for the sending agency
- **Appropriate Supervision Placement:** For purposes of local probation, any offender who is (i) convicted on or after July 1, 1995, of a misdemeanor or a felony that is not a felony act of violence as defined in § [19.2-297.1](#), and for which the court imposes **a total sentence of** 12 months or less, and (ii) no younger than 18 years of age or is considered an adult at the time of conviction may be sentenced to a local community-based probation services agency established pursuant to § [9.1-174](#) by the local governing bodies within that judicial district or circuit. For purposes of pretrial supervision, the proposed case should be an adult defendant (or have been charged as an adult), not charged with an offense punishable by death at the time of the bail hearing, and who has been released to the supervision or custody of a pretrial services agency.
- **Conflict of interest** means a situation in which someone in a position of trust has competing professional or personal interests. Such competing interests can make it difficult to fulfill his or her duties impartially. A conflict of interest exists even if no unethical or improper act results from it. A conflict of interest can create an appearance of impropriety that can undermine confidence in the person, profession, or criminal justice system.

Policy:

A. Transferring a Case

1. Local community-based probation supervision cases may be transferred only to local community-based probation agencies and pretrial cases may be transferred only to pretrial services agencies. The defendant/offender must be a resident of the receiving agency's jurisdiction except for cases which pose a potential conflict of interest which may be transferred to a neighboring jurisdiction that has probation services, if a probation case, and pretrial services, if a pretrial case. This accommodation is at the discretion of both the sending and receiving agencies and should be initiated by a phone call from the sending program's director to the receiving program's director.
2. Agencies may not accept transfer of supervision from another state. Agencies, may, as a courtesy to the court, monitor cases that reside out of the Commonwealth of Virginia.

3. Prior to transferring a case, ensure that it meets the eligibility criteria for appropriate supervision placement in accordance with the *Code of Virginia* (COV). Conduct substance abuse screening, if required, in accordance with substance abuse screening and assessment guidelines. Denial of the transfer request by the receiving agency may occur only in cases where it is not an appropriate supervision placement or jurisdiction. Refer to Locality Cross-Reference page of *Community-Based Probation and Pretrial Services Program Directory* to determine if the proposed jurisdiction is covered by a community corrections or pretrial program. If a town or place name is not listed, use www.mapquest.com or a similar online resource to locate the correct county/city.
4. When transferring a case, all sections of the Transfer Request form must be completed. If not, the acceptance may be delayed until the form is completed properly. If any section is not applicable (i.e. restitution, employment etc.), simply write "NA" in that space.
5. Within **three (3) workdays** of the decision to transfer a defendant/offender's relocation, the sending agency shall fax the Transfer Request form and required attachments (intake form, release of information form, conditions of supervision, court order/warrant) to the receiving agency. This must include an Intake with a completed Basic Demographics form from PTCC. This should also include the proposed mailing address as well as the physical address if the former is a post office box number. Incomplete information will not be accepted and may delay the transfer acceptance. It is the responsibility of the sending agency to forward the circuit court order immediately upon receipt.
6. The defendant/offender shall be directed to contact the receiving agency **within three (3) workdays**, follow their instructions, and return to the sending agency if the transfer is not accepted. The sending agency shall provide the defendant/offender with the name, address and telephone number of the receiving program. Transfer of supervision may be a two-step process: a) receipt of request and b) acceptance/denial of supervision.
7. The receiving agency must sign the Transfer Request form with transfer request "received" circled to acknowledge receipt of transfer request and fax it back to the sending agency **within three (3) workdays**. The receiving agency then has up to five (5) workdays to determine the appropriateness of the placement and fax back the Transfer Request form with "accepted" circled indicating the transfer has been completed. The case will remain active with the sending agency until the transfer is accepted by the receiving agency and the form is faxed back with "accepted" circled
8. If the sending agency does not receive the transfer request/acceptance fax **within three (3) workdays**, the sending agency is to call the receiving agency to verify that the fax was received and inquire as to the status of the pending transfer request.
9. If the defendant/offender does not make contact as directed **within three (3) workdays**, the receiving agency shall initiate contact with the defendant/offender instructing him to report to the receiving program within a period not to exceed **five working days**. This allows the receiving agency a maximum of eight (8) workdays to verify, accept and notify the sending agency.
10. If the receiving agency is unable to provide for the conditions set forth by the sending court because required services are not available in the receiving jurisdiction, they are to call the sending agency immediately in order that the sending agency may contact the court, if needed, to modify conditions. The sending agency shall forward revised documents reflecting authorized changes to the receiving agency.
11. The receiving agency will consider the case active on the date the Transfer Request form is signed as accepted and the sending agency will consider the case inactive on the day the request form is signed as accepted by the receiving agency.

12. Failure by the offender/defendant to make initial contact shall be handled in accordance with the established standard operating procedures of the receiving agency for failure to report for direct court placements.

B. Supervising Transferred Cases

1. Supervision of defendants or offenders shall be provided in accordance with the *Minimum Standards* and standard operating procedures of the receiving agency except for closures (see next section).
2. The receiving agency shall initiate contact with the defendant/offender within the time specified in the *Minimum Standards* for Supervision as for direct court placements. This contact may be via telephone or U.S. Mail. If contact cannot be established **within five (5) workdays**, the sending agency will be notified.
3. The receiving agency shall provide the sending agency with a monthly progress report on the transferred case using the Transfer Case Monthly Progress Report form. This report, describing the progress of the previous month in its entirety, shall be completed and mailed or faxed **by the 10th day of the subsequent month** except for the final progress report (see next section).
4. The receiving agency shall ensure the quality and accuracy of all information on each PTCC Transfer Case Monthly Progress Report. Information submitted to the sending agency shall be verified and not based only on defendant/offender self-report.
5. When the receiving agency becomes aware that the defendant or offender is jailed or arrested due to a new or previous charge, or is the subject of a serious incident report, the receiving agency is to notify the sending agency by phone, email or fax **within one (1) workday** of discovery for both pretrial defendants and local probation offenders.
6. Agencies shall comply with the Fee Collection Policy (3.6.G1-5) with regard to transfer cases.

C. Returning and Closing a Transferred Case

1. The procedures of the receiving agency generally apply to the supervision of transferred cases. However, when returning a transferred case to the sending agency, especially for technical violations, the receiving agency must be cognizant of the procedures of the sending agency since the court of the sending agency may not accept the practices and policies of the receiving agency governing case closures. This could be especially problematic if a receiving agency closes a case and the court of original jurisdiction will not accept the recommendation or if the receiving agency closes a case and does not provide the sending agency with immediate information so that appropriate action can be taken.
 - a. Prior to closing interest in cases where the receiving agency wants to close a case as successful, the receiving agency shall contact the sending agency by telephone to discuss the case closure. If both agencies agree that a closing is in order, the receiving agency shall complete the final Transfer Case Monthly Progress Report and send it to the sending agency by fax or mail **within three (3) work days**. If the sending and receiving agencies do not agree, the sending agency's standard operating procedures shall determine successful case closure.
 - b. In cases where the receiving agency wants to close a case unsuccessfully, the receiving agency shall contact the sending agency by telephone to discuss the non-compliance prior to closing their interest. If both agencies agree that an unsuccessful closure is in order, the receiving agency shall complete the final Transfer Case Monthly Progress Report form and send it to the sending agency by fax or mail **within three (3) workdays**.

2. The receiving and sending agencies should discuss the case, the reasons for recommended closure, and what procedures the court of original jurisdiction follows.
3. When a show cause or capias is determined to be necessary, it is the responsibility of the sending agency to have it issued. However, when supervision is still needed for the case prior to the court rendering a decision, the receiving agency shall continue to provide it, unless the defendant or offender has returned to the sending jurisdiction. The determination of continued supervision is to be handled by the two involved agencies.
4. The receiving agency will consider the transferred case closed beginning the day the sending agency is notified by telephone, fax or mail and agrees to closure. The status of the case in the sending agency will depend upon standard operating procedures of the sending agency.

D. Mediating Disputes and Non-compliance

1. All effort to arrive at an agreement regarding the handling of a transfer case should be taken between the respective field officers of the sending and receiving agencies.
2. When a dispute is identified, the director of one agency shall attempt to directly resolve the conflict with the director of the other agency.
3. Should this fail to resolve the differences, the sending and/or receiving agency should set up a face-to-face meeting with a representative(s) of the DCJS Corrections Section by arrangement with the Section Chief. Representatives from both the sending and receiving agencies must attend. All documents and other supportive information shall be transmitted to DCJS at least **three (3) workdays** prior to the meeting. Anecdotal information that is not supported with written and dated documents will not be considered.
4. If the issue in dispute is a question of policy, DCJS will take it under advisement after hearing from both sides and take appropriate action within **five (5) workdays**. If the issue under dispute is clearly addressed in the guideline and one or both parties are unwilling to accept DCJS resolution, the Department will notify the appropriate Project Administrators and will expect the situation to be rectified internally.
5. In the event of non-compliance with state standards, guidelines or policies, DCJS may withhold quarterly disbursements or suspend all or a portion of grant funding until compliance is achieved.