



Commonwealth of Virginia  
Virginia Department of Criminal Justice Services  
Community Corrections and Pretrial Services  
**TRANSFER POLICY**

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**PURPOSE:** To provide all local community-based probation and pretrial services agencies with a consistent and uniform policy for transferring individuals court ordered to supervision from one agency to another agency in Virginia. All local agencies must incorporate these policies and procedures into the local standard operating procedure (SOPs). Agencies may develop additional procedures for such things as internal process, designated agency contact, and individual(s) responsible for approvals.

The transfer process fosters a collaborative system approach for local community-based probation and pretrial services to determine the best way to supervise an individual to promote prosocial behavior and public safety.

**AUTHORITY:** §§ 9.1-174, 9.1-175, 9.1-176, 9.1-176.1 and § 18.2-254.3 of the *Code of Virginia*.

**RELATED STANDARDS:** Virginia Department of Criminal Justice Services (DCJS) *Local Community-Based Probation Minimum Standards*, § 3.8 Transfer of Supervision and *Minimum Standards for Pretrial Services*, § 3.9 Transfers.

**SUPERSESSON:** Supersedes and replaces DCJS Guideline #3 Transfer of Supervision effective 2/17/2012.

**ATTACHMENTS AND RELATED DCJS STANDARD FORMS:**

- *Transfer Request*
- *Transfer Case Monthly Progress Report*
- *Transfer Resolution Request*

**DEFINITIONS:**

- **Sending Agency:** The local community-based probation or pretrial services agency that serves the referring court and is transferring an individual to a corresponding agency in another locality for supervision.
- **Receiving Agency:** The local community-based probation or pretrial services agency that has been asked and agreed to supervise an individual for the sending agency.
- **Appropriate Local Community-Based Probation Placement:** For purposes of local community-based probation, § [19.2-303.3](#) 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 agency established pursuant to § [9.1-174](#) by the local governing bodies within that judicial district or circuit. This includes eligible individuals placed on local community-based probation following a deferred proceeding (*Va. Code* §§ 4.1-305, 9.1-174, 18.2-57.3, 18.2-251, 19.2-303.2, 19.2-303.3, and 19.2-303.6) or pursuant to current legal rulings.
- **Appropriate Pretrial Services Placement:** For purposes of pretrial services supervision, the individual must be a persons age 18 or over or persons under the age of 18 who have been transferred for trial as adults held in custody and charged with an offense, other than an offense punishable as a Class 1 felony, who are pending trial or hearing and who has been released to the supervision or custody of a pretrial services agency (*Va. Code* § 19.2-152.2).
- **Case Management System:** The DCJS required automated system to use for case management of individuals on supervision and those subject to pretrial services investigation.
- **Resident:** A resident of a locality is an individual who lives in a locality, including but not limited to students, military personnel, and individuals that may not have a permanent residence but reside in the locality.

## TRANSFER OF SUPERVISION:

### A. Transfer of Supervision Requirements

1. Local community-based probation transfers may only occur between local community-based probation agencies in Virginia; pretrial services transfers may only occur between local pretrial services agencies in Virginia.
2. Local community-based probation and local pretrial services agencies established pursuant to §§ 19.2-303.3 or 19.2-152.2 of the *Code of Virginia*, are prohibited from requesting or accepting transfers to or from another state.
3. The agency of the original placement is not required to transfer supervision. The originating placement agency may choose not to request a transfer of supervision in the following circumstances:
  - a. The individual is supervised virtually,
  - b. The individual is receiving services in the originating locality,
  - c. The individual works in the originating locality, or
  - d. In situations where a transfer may not result in the best supervision outcome for the individual.
4. The request to transfer supervision must meet the following criteria:
  - a. Be an appropriate placement for local community-based probation or pretrial services in accordance with §§ 19.2-303.3 or 19.2-152.2 of the *Code of Virginia*;
  - b. Be a resident of one of the receiving agency's localities served;
  - c. Be referred by a court in Virginia served by a local community-based probation or pretrial services agency;
  - d. The individual considered for transfer may pose a potential conflict if they remain at the original agency for supervision. In these circumstances, the original agency may request an agency adjacent to them supervise the individual. The receiving agency director must approve the transfer request in these cases.
5. Agencies may not accept transfers in the following circumstances:
  - a. The transfer request is from another state;
  - b. The supervision placement is in a monitoring status for local community-based probation; or
  - c. The supervision placement is assigned to a monitoring level of supervision for pretrial services;
6. The sending agency must complete the following before the receiving agency shall consider accepting the transfer request:
  - a. All sections of the DCJS *Transfer Request* form are completed, including the most current physical address, phone number, and any supervision/intervention fees paid prior to transfer. If any section on the DCJS *Transfer Request* form is not applicable (i.e. restitution, employment, etc.), write "NA" in that space on the form.
  - b. All of the following attachments are included:
    - i. Signed Conditions of Supervision including any fines, fees, restitution owed and paid and any additional special court ordered supervision requirements
    - ii. Signed Release of Information
    - iii. Basic Demographics from the Case Management System
    - iv. Court order/warrant
    - v. Pretrial services investigation report, if applicable
    - vi. Substance abuse assessments, if applicable
    - vii. Virginia Pretrial Risk Assessment Instrument (VPRAI), if applicable
    - viii. The Modified Offender Screening Tool (MOST) probation risk screening, if applicable

7. Prior to transferring an individual, the sending agency must ensure they meet the eligibility criteria for appropriate supervision placement in accordance with §§ 19.2-303.3 or 19.2-152.2 of the *Code of Virginia*. The sending agency must conduct the MOST or VPRAI prior to transfer. In addition, the sending agency should conduct any substance abuse screening in accordance with substance abuse screening and assessment requirements. If the sending agency is not able to conduct the screening or assessment prior to sending the transfer request, the sending agency must contact the receiving agency to obtain agreement that they are willing to conduct the screening or assessment.
8. If the transfer request does not occur at the time of the original court placement, the sending agency should provide a brief summary of the supervision history to ensure the best supervision outcome for the individual.

### **Steps for Transfer of Supervision**

The transfer of supervision is a multi-step process. This process allows the receiving agency a maximum of eight workdays to verify, accept, and notify the sending agency of acceptance or denial of the transfer. Before referring the individual to the receiving agency's office, the following steps are required:

#### **Step 1: Initiate the Transfer Request (Sending Agency)**

1. After the decision to transfer the individual is determined, the sending agency must securely transmit the DCJS *Transfer Request* form and required attachments to the receiving agency within five workdays.
2. All email transmissions of transfer case information must be encrypted.
3. Refrain from the use of abbreviations and acronyms.

#### **Step 2: Acknowledge the Transfer Request**

1. The receiving agency has up to three workdays to acknowledge receipt of the transfer request and must circle "received," sign, date, and return the DCJS *Transfer Request* form to the sending agency. Please note this is not the same as accepting the transfer.
2. If the sending agency does not receive the DCJS *Transfer Request* form from the receiving agency acknowledging receipt within three workdays, the sending agency should contact the receiving agency to verify receipt and the status of the transfer of supervision request.
3. It is the responsibility of the sending agency to ensure the receiving agency receives all the required forms and attachments.

#### **Step 3: Review the Transfer Request**

1. After the receiving agency acknowledges receipt of the transfer request, it shall have up to five workdays to "accept" or "deny" the request for transfer of supervision. This is to allow time for the receiving agency to determine the individual meets the criteria for transfer and the receiving agency is able to provide for the conditions of supervision.
2. If the receiving agency determines it is unable to provide for the court ordered conditions of supervision, the receiving agency must contact the sending agency immediately to discuss supervision options. This will foster a collaborative approach to determine the best way to supervise an individual with the goal of promoting prosocial behavior and public safety.

3. It is the responsibility of the sending agency to communicate any barriers to service and suggested modifications to the court order to the referring court. If barriers to services are identified, the following must occur:
  - a. The sending agency must forward revised documentation reflecting authorized changes to the receiving agency, if applicable.
  - b. If the court ordered requirements cannot be modified and the individual cannot be transferred, the sending agency must communicate with the referring court so alternative supervision arrangements can be made.
  - c. Before finalizing the transfer of supervision, both agencies must consider resource differences including, but not limited to, the availability of court ordered services, the proximity of the locality that provides the service, expenses that will be incurred by the individual, and access to transportation.

#### **Step 4: Accept or Deny the Transfer Request**

1. The receiving agency shall only deny the transfer request if any one of the following exists:
  - a. The case is not an appropriate placement type;
  - b. The individual does not reside in a locality served by the receiving agency;
  - c. The transfer request includes insufficient or incomplete paperwork;
  - d. Court ordered services are not available; or
  - e. There is a conflict of interest between the receiving agency and the individual referred for supervision.
2. If the receiving agency denies the transfer request, the receiving agency must circle “denied,” specify the exact reason(s) for denial, sign, date, and return the DCJS *Transfer Request* form to the sending agency.
3. Extenuating circumstances for a denial of transfer request requires the prior approval of DCJS. The agency director must contact the assigned DCJS grant monitor to discuss the situation and options.
4. If the receiving agency accepts the transfer, the receiving agency must circle “accepted,” sign, date, and return the DCJS *Transfer Request* form to the sending agency.
5. If the receiving agency accepts the transfer, the sending agency must provide the transferred individual with the name, address, and telephone number of the receiving agency and direct them to contact the receiving agency within five workdays of the transfer acceptance.
6. Until the receiving agency reviews, signs, and approves the transfer request, supervision responsibilities of the individual remains with the sending agency.
7. The receiving agency must make all applicable placements in the Case Management System active and the sending agency must make the case inactive in the Case Management System on the date the DCJS *Transfer Request* form is accepted and signed.
8. The court referral date in the Case Management System should reflect the date shown on the court documentation or as indicated by the sending agency.
9. If the transferred individual does not contact the receiving agency within five workdays as directed by the sending agency, the receiving agency must contact the transferred individual to schedule a meeting within five working days. The receiving agency’s policies and procedures shall apply for case action when the individual being transferred failures to make the initial contact.

#### **B. Supervision of Transferred Individuals**

1. The receiving agency’s Standard Operating Procedures (SOP) apply for supervision of the transferred individual in accordance with the *Local Community-Based Probation Minimum Standards* or the *Minimum Standards for Pretrial Services*.

2. All correspondence and communication from the referring court may only occur through the sending agency. If the referring court initiates contact with the receiving agency, the receiving agency director must inform the sending agency director of any communications. This includes communication from commonwealth attorney's offices and defense attorneys.
3. The receiving agency must provide the sending agency with a completed DCJS *Transfer Case Monthly Progress Report* form no later than the 10<sup>th</sup> calendar day of the following month.
4. The receiving agency must verify the information included in the DCJS *Transfer Case Monthly Progress Report* form is accurate and complete prior to submitting it to the sending agency.
5. No abbreviations or acronyms should be included in the DCJS *Transfer Case Monthly Progress Report* form.
6. The receiving agency must notify the sending agency if the individual has been arrested, incarcerated due to a new or previous charge, or the subject of a serious incident report within one workday of becoming aware of the event.

### **C. Return of Transfer Cases**

1. The receiving agency may not return a case and close it until the sending agency has agreed to the return. The receiving agency must continue supervision until advised otherwise by the sending agency.
2. If the sending agency does not agree that the case may be returned, they must communicate the reason and process for moving towards case return within three workdays to the receiving agency.
3. The sending agency has the ultimate responsibility to monitor court action and notify the receiving agency within three workdays when the individual is removed from supervision.
4. When the sending agency agrees that the case may be returned, the receiving agency should complete and submit the final DCJS *Transfer Case Monthly Progress Report* form to the sending agency within five workdays. The receiving agency must close the case and the sending agency will resume responsibility of the case.
5. The receiving agency may only return the transfer supervision case to the agency where the court referral for supervision originated (sending agency). It is the responsibility of the sending agency to initiate a new transfer request to a different agency if the individual relocates to a new locality.
6. It shall be the sending agency's decision and responsibility to request a summons to show cause or *capias* to show cause in response to violations of supervision.
  - a. If a Show Cause is issued, supervision should continue by the receiving agency until the court renders a decision.
  - b. If a *Capias* is issued, and the individual is arrested and released, supervision should continue by the receiving agency until the court renders a decision.
  - c. If a *Capias* is issued, and the individual is incarcerated or has absconded, the receiving agency shall update the supervision status from active to inactive in the case management system until the sending agency approves the return or 90 days, whichever is sooner.

### **D. Mediating Disputes and Non-compliance**

1. The respective officers of the sending and receiving agencies must make all efforts to arrive at an agreement regarding the handling of transfer cases.
2. If the officers cannot agree to a resolution, the issue should be elevated to their immediate supervisors for resolution. In offices where there are no supervisory staff, this may be the director.
3. If the supervisors cannot agree to a resolution, the issue should be elevated to the director level.
4. When a specific dispute or recurring, non-corrected, issue is identified, the director that has the dispute will contact the director of the other agency to directly resolve the conflict.

5. Either agency director may escalate the dispute to DCJS if the dispute is not resolved as outlined above. To escalate the dispute to DCJS, the agency director must complete the following:
  - a. The agency requesting resolution must complete the DCJS *Transfer Resolution Request* form and submit it to their DCJS grant monitor with a copy to the corresponding agency director.
  - b. The corresponding agency director has five workdays to provide a written response to their DCJS grant monitor.
  - c. DCJS must provide a written response addressing the dispute and recommended resolution to both directors within five workdays.
  - d. If the DCJS response does not resolve the issue to the satisfaction of both agency directors, either agency director may request a meeting with the DCJS Adult Justice Programs Manager within five workdays of receiving the DCJS response.
  - e. DCJS will schedule a mandatory meeting date that is mutually agreeable to both agency directors.
  - f. Prior to the mandatory meeting with DCJS, the agency directors must transmit all documents, including the DCJS *Transfer Resolution Request* form and other supportive information at least three workdays prior to the scheduled meeting. DCJS will not consider anecdotal information not supported with written and dated documents.
  - g. If one or both parties are unwilling to accept the DCJS resolution, DCJS will notify the appropriate local Project Administrators and request a plan of action to rectify the dispute.
6. 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 the agency is in compliance.