



Concurrent Supervision

in a Specialized Docket

In the following situations:

1. A judge presides over a specialized docket and is presented with a defendant in his or her jurisdiction under concurrent supervision per R.C. 2951.022,¹ or
2. A judge without a specialized docket and with a defendant subject to concurrent supervision per R.C. 2951.022 wishes the defendant to be considered for a specialized docket.²

The following should be considered:

1. As a nonresident of the Specialized Docket County, the defendant may not be eligible to receive the same level of services as residents in the county.
 - a. Which county will bear the costs of treatment and substance use monitoring?
 - b. If substance use monitoring is provided in the originating county, does the provider comply with the Ohio Standards for Specialized Dockets regarding testing in a specialized docket?
 - c. If substance use monitoring results are contested, which county bears the costs of confirmation of the test?
 - d. Will the defendant be eligible for housing, transportation, employment, and other opportunities provided by the docket for the participants within its jurisdiction?
2. Does the defendant have reliable transportation or is the defendant under any driving restrictions that would inhibit the defendant's ability to attend mandatory probation meetings, community service, substance use appointments, sober support meetings, treatment, and court appearances?
3. Is the defendant already supervised by another jurisdiction?
 - a. Does that jurisdiction have a specialized docket?
 - b. Can the defendant receive specialized docket services such as treatment or case management through intensive supervision in the originating county, rather than participating in the specialized docket?
 - c. Is the defendant eligible for the specialized docket based on criminogenic risk and treatment needs?
 - i. Defendants with high criminogenic risk and high treatment needs should be separated in specialized docket hearings and treatment groups from those with low risk and low treatment needs.

- ii. Did the Specialized Docket Judge and Treatment Team review the defendant's risk and clinical need and determine that the defendant meets the docket's eligibility criteria?
 - iii. Did the Specialized Docket Judge make the ultimate determination regarding appropriateness and admission to the docket, in compliance with the Ohio Standards for Specialized Dockets?
4. Has the other supervising court agreed to the transfer of supervision per R.C. 2951.022(B)(4)(a)?
 5. If the other supervising court has agreed to the transfer, has the defendant completed any local residential sanction per R.C. 2951.022(E), such as mandatory days in the county jail for OVI charges or time in a community-based correctional facility?
 6. Is the defendant participating in Intervention in Lieu of Conviction (ILC) per R.C. 2951.041?
 - a. If the defendant is participating in ILC, the sentencing court, not the specialized docket judge, must establish the intervention plan (including treatment and substance use monitoring) and determine whether the defendant has successfully completed his or her intervention plan. Having a nonspecialized docket judge establish the intervention plan is contrary to the Ohio Standards for Specialized Dockets and National Best Practices.
 7. Does the transferring county without a specialized docket encounter many defendants with a high risk for reoffending and high treatment needs who are appropriate candidates for a specialized docket?
 - a. If so, contact Specialized Dockets Sections regarding the development of a specialized docket in the originating county.

Questions? Contact:
specdocs@sc.ohio.gov

Endnotes:

- 1 R.C. 2301.28 and R.C. 2929.25(C)(1) deal with instances of courtesy supervision between probation offices only. A supervising court does not have jurisdiction over a defendant whose supervision is transferred to the defendant's residential county under R.C. 2301.28 and R.C. 2929.25(C)(1). Any community control violation hearings must be heard by the sentencing court, not the supervising court. Courtesy supervision can only occur if both the sentencing court and supervising courts have agreed to the supervision. A memorandum of understanding transferring jurisdiction between two courts is contrary to law, as the jurisdiction of each court is determined by either Article IV, Sections 1 and 4 of the Ohio Constitution for Common Pleas Courts, by the legislature in R.C. 1901.02 for Municipal Courts, or R.C. 1907.02 for County Courts. Accordingly, it is not best practice for courtesy supervision defendants to be placed in specialized dockets in the supervising county because the sentencing court cannot receive the same detailed information about the defendant's progress that a specialized docket judge receives. Specialized docket proceedings are exempt from ex parte communications, but a termination in front of the sentencing judge is not. Jud.Cond.R. 2.9(A)(6). Judges are only able to initiate, receive, permit, or consider ex parte communications when operating a specialized docket that complies with the Rules of Superintendence. As such, if a judge is not operating a specialized docket that complies with the Rules of Superintendence, that judge cannot receive written or oral reports regarding the matters discussed ex parte during treatment team meetings or status review hearings. Additionally, the sentencing judge does not have the benefit of a treatment team with experts who are familiar with the defendant's progress in the specialized docket and any sanction without this information may be harmful to the defendant.
- 2 Pursuant to R.C. 2152.19, 2151.15, and 2151.151, these considerations should also be applied by judges presiding over juveniles and juvenile specialized dockets.