

CONSOLIDATION CHECKLIST

- ___(1) Determine what charges have been filed in which counties. You can check all but two of the counties in Wisconsin by using CCAP. Your client is often the best source of information. Also try to find out if there are any charges that are not yet filed.
- ___(2) Discuss consolidation with your client and any attorneys she may have in other counties. Weigh the pros and cons of consolidating vs. not consolidating.
- ___(3) If your client wants to consolidate, talk with your local DA, the DAs from the other counties, and any attorneys your client has in other counties and try to work out a plea agreement that is acceptable to your client.
- ___(4) If you work out a plea agreement, draft an Application for Consolidation (see the form attached). Review this application with your client and have the client sign it. Please see sec. 971.09(1)
- ___(5) Send the signed application to your local DA.
- ___(6) Once your local DA receives the application, he or she is supposed to prepare “an information charging all the admitted crimes and naming in each count the county where the crime was committed.” Please see sec. 971.09(2) Wis. Stats. Don’t be surprised if you end up having to draft the information for the DA to keep the ball rolling.
- ___(7) Once the information is completed, your local DA sends to the DAs in the other counties the following: a copy of the information, a copy of the Application for Consolidation, and “a statement that the defendant has applied to plead guilty” in your county to the charges in the other counties. Please see sec. 971.09(2) Wis. Stats. The cover letter from your local DA can serve as the “statement”.
- ___(8) Once the DAs in the other counties receive the items in (7) they must decide whether they will consent to the consolidation. Hopefully, you have already worked this all out. If the other DAs are willing to consent, then they each execute a Consent to Consolidate (see attached form) and send it to your local DA. (NOTE: many DAs are so busy/disorganized that the consent form will never get drafted unless you draft it. Sometimes you can persuade the client’s attorney in the other county to perform this task.)
- ___(9) Once your local DA gets the consent forms back from the DAs in the other counties, he or she then files the information, consent forms, and the application with the court in your county. Please see sec. 971.09(3) Wis. Stats.
- ___(10) Section 971.09(3) Wis. Stats. states “before entering a plea of guilty, the defendant shall waive in writing any right to be tried in the county where the crime was committed”. If you use the marvelous consent form attached hereto, this detail will have already been taken care of.
- ___(11) Your client then goes to court and pleads guilty pursuant to the plea agreement set forth in the Application for Consolidation. Please note that if you and your local DA change the terms of an agreement you made with a DA in another county, that DA is no longer bound by his agreement to either dismiss or not charge. Please see State v. Dillon, 187 Wis.2d 39, 522 N.W.2d 530 (Ct. App. 1994).
- ___(12) You should obtain a copies of the Judgment of Conviction (which should include all the consolidated charges) and send it to the clerks of court, DAs, and defense attorneys in the other counties. You should remind your clerk of court that the statute [971.09(5)] requires him or her to send a copy of the judgment to the clerks of court in the other counties.
- ___(13) Once a copy of the judgment of conviction from your county has been filed in the other counties, the DA in each of the other counties is required to move to dismiss the charges pending against the defendant in their county and the judge is required to dismiss them. (Unless there is the Dillon problem noted in (11) above.)
- ___(14) You should obtain copies of the orders of dismissal from the other counties for your file.

971.09 Plea of guilty to offenses committed in several counties.

(1) Any person who admits that he or she has committed crimes in the county in which he or she is in custody and also in another county in this state may apply to the district attorney of the county in which he or she is in custody to be charged with those crimes so that the person may plead guilty and be sentenced for them in the county of custody. The application shall contain a description of all admitted crimes and the name of the county in which each was committed.

(2) Upon receipt of the application the district attorney shall prepare an information charging all the admitted crimes and naming in each count the county where each was committed. The district attorney shall send a copy of the information to the district attorney of each other county in which the defendant admits he or she committed crimes, together with a statement that the defendant has applied to plead guilty in the county of custody. Upon receipt of the information and statement, the district attorney of the other county may execute a consent in writing allowing the defendant to enter a plea of guilty in the county of custody, to the crime charged in the information and committed in the other county, and send it to the district attorney who prepared the information.

(3) The district attorney shall file the information in any court of the district attorney's county having jurisdiction to try or accept a plea of guilty to the most serious crime alleged therein as to which, if alleged to have been committed in another county, the district attorney of that county has executed a consent as provided in sub. (2). The defendant then may enter a plea of guilty to all offenses alleged to have been committed in the county where the court is located and to all offenses alleged to have been committed in other counties as to which the district attorney has executed a consent under sub. (2). Before entering a plea of guilty, the defendant shall waive in writing any right to be tried in the county where the crime was committed. The district attorney of the county where the crime was committed need not be present when the plea is made but the district attorney's written consent shall be filed with the court.

(4) Thereupon the court shall enter such judgment, the same as though all the crimes charged were alleged to have been committed in the county where the court is located, whether or not the court has jurisdiction to try all those crimes to which the defendant has pleaded guilty under this section.

(5) The county where the plea is made shall pay the costs of prosecution if the defendant does not pay them, and is entitled to retain fees for receiving and paying to the state any fine which may be paid by the defendant. The clerk where the plea is made shall file a copy of the judgment of conviction with the clerk in each county where a crime covered by the plea was committed. The district attorney shall then move to dismiss any charges covered by the plea of guilty, which are pending against the defendant in the district attorney's county, and the same shall thereupon be dismissed.

STATE OF WISCONSIN : CIRCUIT COURT : (1.01) COUNTY

STATE OF WISCONSIN,

Plaintiff

**DEFENDANT'S
APPLICATION FOR
CONSOLIDATION**

-vs-

(1.03),

Defendant

Case No. (1.02)

Pursuant to section 971.09 of the Wisconsin Statutes, the defendant, by (his/her) attorney, applies to the district attorney of this county for the consolidation of the following crime(s) committed in (another county/other counties) of this state:

(List in separately numbered paragraphs the crime or crimes committed in other counties. Each paragraph should contain a description of the crime(s) committed in the other county. The description should contain as much detail as possible in order to prevent future jeopardy. Reference should be made to criminal statute numbers and any circuit court file numbers.)

This application is made pursuant to a proposed settlement of (all) the above charge(s). This proposed settlement has been previously discussed and agreed to by the defendant, (his/her) attorney, the district attorney of this county, and the district attorney's office of (each of) the (county/counties) listed above. The terms and conditions of the proposed settlement are as follows:

(Set forth the details of any proposed settlement. Be sure to specify: (1) the nature of any plea, whether guilty or no contest; (2) whether crimes are to be read in or dismissed outright; and (3) any sentencing recommendations.)

This application is made in the interest of the efficient administration of justice and on the defendant's behalf.

Dated: (date).

Sincerely,

(2.03) (Firm/Office Name)

Attorneys for the Defendant

/s/ _____
(2.01) (Attorney Handling Case)

State Bar No. (2.02)

(2.04) (Firm/Office Address)

(2.05) (Firm/Office Telephone No.)