

Assembly Bill No. 27

Passed the Assembly August 29, 2005

Chief Clerk of the Assembly

Passed the Senate August 22, 2005

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2005, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 1037 of, and to add Sections 1037.1 and 1037.2 to, the Penal Code, relating to trial costs.

LEGISLATIVE COUNSEL'S DIGEST

AB 27, Mullin. Homicide trial costs.

Existing law provides that when a court orders a change of venue to a court in another county, all costs incurred by that court or county, which are not payable by the state, as specified, shall be a charge against the court or the county in which the action originated. Existing law further requires that claims for these costs be forwarded to the treasurer and auditor of the county in which the action originated, and require the treasurer of the county of origin to pay the amount of county costs out of the general funds of the county of origin.

This bill would revise these provisions to instead provide that when a court orders a change of venue to a court in another county, all costs, as defined, incurred by the receiving county that are not payable by the state shall be paid by the transferring court or county. If the change of venue costs are court operations, those costs would be considered court costs to be charged against and paid by the transferring court to the receiving court, as specified. The Judicial Council would adopt specified financial policies and procedures to ensure the timely payment of these court costs. If the change of venue costs incurred by the receiving county are not court operations, those costs would be considered county costs to be paid by the transferring county to the receiving county, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 1037 of the Penal Code is amended to read:

1037. (a) When a court orders a change of venue to a court in another county, all costs incurred by the receiving court or county, that are not payable pursuant to Section 4750, shall be paid by the transferring court or county as provided in Sections

1037.1 and 1037.2. Those costs may include, but are not limited to, the expenses for the following:

- (1) The transfer, preparation, and trial of the action.
 - (2) The guarding, keeping, and transportation of the prisoner.
 - (3) Any appeal or other proceeding relating to the action.
 - (4) Execution of the sentence.
- (b) The term “all costs” means all reasonable and necessary costs incurred by the receiving court or county as a result of the change of venue that would not have been incurred but for the change of venue. “All costs” does not include normal salaries, overhead, and other expenses that would have been incurred by the receiving court or county if it did not receive the trial.

SEC. 2. Section 1037.1 is added to the Penal Code, to read:

1037.1. (a) Change of venue costs, as defined in Section 1037, that are court operations, as defined in Section 77003 of the Government Code and Rule 810 of the California Rules of Court, shall be considered court costs to be charged against and paid by the transferring court to the receiving court.

(b) The Judicial Council shall adopt financial policies and procedures to ensure the timely payment of court costs pursuant to this section. The policies and procedures shall include, but are not limited to, the following:

(1) The requirement that courts approve a budget and a timeline for reimbursement before the beginning of the trial.

(2) A process for the Administrative Office of the Courts to mediate any disputes regarding costs between transferring and receiving courts.

(c) (1) The presiding judge of the transferring court, or his or her designee, shall authorize the payment for the reimbursement of court costs out of the court operations fund of the transferring court.

(2) Payments for the reimbursement of court costs shall be deposited into the court operations fund of the receiving court.

SEC. 3. Section 1037.2 is added to the Penal Code, to read:

1037.2. (a) Change of venue costs, as defined in Section 1037, that are incurred by the receiving county and not defined as court operations under Section 77003 of the Government Code or Rule 810 of the California Rules of Court shall be considered to be county costs to be paid by the transferring county to the receiving county.

(b) Transferring counties shall approve a budget and a timeline for the payment of county costs before the beginning of trial.

(c) Claims for the costs described in subdivision (a) shall be forwarded to the treasurer and auditor of the transferring county on a monthly basis. The treasurer shall pay the amount of county costs out of the general funds of the transferring county within 30 days of receiving the claim for costs from the receiving county.

(d) (1) The transferring court may, in its sound discretion, determine the reasonable and necessary costs under this section.

(2) The transferring court's approval of costs shall become effective 10 days after the court has given written notice of the costs to the auditor of the transferring county.

(3) During the 10-day period specified in paragraph (2), the auditor of the transferring county may contest the costs approved by the transferring court.

(4) If the auditor of the transferring county fails to contest the costs within the 10-day period specified in paragraph (2), the transferring county shall be deemed to have waived the right to contest the imposition of these costs.

Approved _____, 2005

Governor