

AMENDED IN SENATE APRIL 20, 2009

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 431

Introduced by Senator Benoit

February 26, 2009

An act to amend Section 1203.9 of the Penal Code, relating to probation.

LEGISLATIVE COUNSEL'S DIGEST

SB 431, as amended, Benoit. Probation: transfers.

Existing law provides that whenever any person is released upon probation, the case may be transferred to any court of the same rank in any other county in which the person resides permanently, provided that the court of the receiving county shall first be given an opportunity to determine whether the person does reside in and has stated the intention to remain in that county for the duration of probation. Existing law provides that if the court finds that the person does not reside in or has not stated an intention to remain in that county for the duration of probation, it may refuse to accept the transfer.

This bill would provide that the transfers would be mandatory, unless, *in certain cases*, the receiving court makes a determination on the record that the transfer would be inappropriate, *as specified*.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. Section 1203.9 of the Penal Code is amended to
2 read:

1 1203.9. (a) Whenever any person is released upon probation,
2 the case shall be transferred to any court of the same rank in any
3 other county in which the person resides permanently, meaning
4 the stated intention to remain for the duration of probation;
5 provided that the court of the receiving county shall first be given
6 an opportunity to determine whether the person does reside in and
7 has stated the intention to remain in that county for the duration
8 of probation. If the court finds that the person does not reside in
9 or has not stated an intention to remain in that county for the
10 duration of probation, the court may refuse to accept the transfer.
11 The court and the probation department shall give the matter of
12 investigating those transfers precedence over all actions or
13 proceedings therein, except actions or proceedings to which special
14 precedence is given by law, to the end that all those transfers shall
15 be completed expeditiously.

16 (b) If the court of the receiving county finds that the person does
17 permanently reside in or has permanently moved to the county,
18 the court shall accept the entire jurisdiction over the case, ~~unless~~
19 ~~there is a determination on the record that the transfer would be~~
20 ~~inappropriate.~~

21 (c) Whenever a person is granted probation under Section
22 1210.1, the sentencing court shall transfer jurisdiction of the entire
23 case, upon a finding by the receiving court of the person's
24 permanent residency in the receiving county, unless there is a
25 determination on the record that the transfer would be
26 inappropriate.

27 (d) The order of transfer shall contain an order committing the
28 probationer to the care and custody of the probation officer of the
29 receiving county and an order for reimbursement of reasonable
30 costs for processing the transfer to be paid to the sending county
31 in accordance with Section 1203.1b. A copy of the orders and
32 probation reports shall be transmitted to the court and probation
33 officer of the receiving county within two weeks of the finding by
34 that county that the person does permanently reside in or has
35 permanently moved to that county, and thereafter the receiving
36 court shall have entire jurisdiction over the case, with the like
37 power to again request transfer of the case whenever it seems
38 proper.

- 1 *(e) The Judicial Council shall adopt rules providing factors for*
2 *the court's consideration when determining the appropriateness*
3 *of a transfer, including, but not limited to, the following:*
4 *(1) Permanency of residence of the offender.*
5 *(2) Local programs available for the offender.*
6 *(3) Restitution orders and victim issues.*

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