

AMENDED IN ASSEMBLY JUNE 4, 2009

AMENDED IN SENATE APRIL 22, 2009

AMENDED IN SENATE APRIL 20, 2009

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 431

Introduced by Senators Benoit and Leno

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~~, there is a determination on the record that the transfer would be inappropriate, as specified. *The bill would require a noticed motion for the transfer for certain cases, as specified, and would require the Judicial Council to promulgate rules of court pertaining to the motion procedures, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes.
 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:

3 ~~1203.9. (a) Whenever any person is released upon probation,~~
 4 ~~the case shall be transferred to any court of the same rank a person~~
 5 ~~is released on probation, the court, upon noticed motion, shall~~
 6 ~~transfer the case to the superior court in any other county in which~~
 7 ~~the person resides permanently, meaning with the stated intention~~
 8 ~~to remain for the duration of probation, unless there is a~~
 9 ~~determination on the record the transferring court determines that~~
 10 ~~the transfer would be inappropriate; provided that the court of the~~
 11 ~~receiving county shall first be given an opportunity to determine~~
 12 ~~whether the person does reside in and has stated the intention to~~
 13 ~~remain in that county for the duration of probation. If the court~~
 14 ~~finds that the person does not reside in or has not stated an intention~~
 15 ~~to remain in that county for the duration of probation, the court~~
 16 ~~may refuse to accept the transfer and states its reasons on the~~
 17 ~~record. Upon notice of the motion for transfer, the court of the~~
 18 ~~proposed receiving county may provide comments for the record~~
 19 ~~regarding the proposed transfer, following procedures set forth~~
 20 ~~in rules of court developed by the Judicial Council for this purpose,~~
 21 ~~pursuant to subdivision (e).~~ The court and the probation department
 22 shall give the matter of investigating those transfers precedence
 23 over all actions or proceedings therein, except actions or
 24 proceedings to which special precedence is given by law, to the
 25 end that all those transfers shall be completed expeditiously.

26 (b) ~~If the~~The court of the receiving county finds that the person
 27 does permanently reside in or has permanently moved to the
 28 county, the court shall accept the entire jurisdiction over the case.

29 (c) ~~Whenever~~Notwithstanding subdivision (a), whenever a
 30 person is granted probation under Section 1210.1, the sentencing
 31 court shall transfer jurisdiction of the entire case, upon a finding
 32 by the receiving court of the person's permanent residency in the
 33 receiving county, unless there is a determination on the record that
 34 the transfer would be inappropriate.

1 (d) The order of transfer shall contain an order committing the
2 probationer to the care and custody of the probation officer of the
3 receiving county and an order for reimbursement of reasonable
4 costs for processing the transfer to be paid to the sending county
5 in accordance with Section 1203.1b. A copy of the orders and
6 probation reports shall be transmitted to the court and probation
7 officer of the receiving county within two weeks of the finding by
8 ~~that county~~ that the person does permanently reside in or has
9 permanently moved to that county, and thereafter the receiving
10 court shall have entire jurisdiction over the case, with the like
11 power to again request transfer of the case whenever it seems
12 proper.

13 (e) *The Judicial Council shall promulgate rules of court for*
14 *procedures by which the proposed receiving county shall receive*
15 *notice of the motion for transfer and by which responsive comments*
16 *may be transmitted to the court of the transferring county.* The
17 Judicial Council shall adopt rules providing factors for the court's
18 consideration when determining the appropriateness of a transfer,
19 including, but not limited to, the following:

- 20 (1) Permanency of residence of the offender.
- 21 (2) Local programs available for the offender.
- 22 (3) Restitution orders and victim issues.