

AMENDED IN SENATE MARCH 15, 2004

AMENDED IN SENATE AUGUST 26, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1306

Introduced by Assembly Member Leno

February 21, 2003

An act to amend Section 1203.9 of the Penal Code, relating to probation, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1306, as amended, Leno. Probation: transfer of cases.

Existing law sets forth procedures under which a person released upon probation may be transferred to the care and custody of the probation officer of another county. ~~Existing law also authorizes the court to order a probationer, pursuant to specified procedures, to pay all or a portion of the reasonable cost of processing a transfer of probation to another county. Existing law, added by an initiative measure that permits amendment only by roll call vote of $\frac{2}{3}$ of the membership of both houses of the Legislature, provides for special terms and conditions of probation in cases involving possession of controlled substances and related charges.~~

This bill would provide special probation transfer procedures for people on probation under the initiative provisions relating to controlled substance possession and similar charges. Once transferred, the probationer would be under the jurisdiction of the court in the new county for all purposes, including probation supervision and treatment.

By providing a special probation transfer process applicable only to these controlled substance offenders, this bill would amend an initiative requiring a 2/3 vote of both houses of the Legislature. By requiring a county to accept a transfer of probation in certain circumstances, thereby obligating that county to provide supervision and treatment, and to address violations of probation with prosecution and other resources, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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



1 by law, to the end that all those transfers shall be completed
2 expeditiously.

3 (b) Except as provided in subdivision (c), if the court of the
4 receiving county finds that the person does permanently reside in
5 or has permanently moved to the county, it may, in its discretion,
6 either accept the entire jurisdiction over the case, or assume
7 supervision of the probationer on a courtesy basis.

8 ~~(c) Upon a finding of permanent residency pursuant to~~
9 ~~subdivision (b), whenever a person is granted probation under~~
10 ~~Section 1210.1, the entire jurisdiction over the case may be~~
11 ~~transferred at the discretion of the sentencing court.~~

12 *(c) Whenever a person is granted probation under Section*
13 *1210.1, the sentencing court may, in its discretion, transfer*
14 *jurisdiction of the entire case, upon a finding by the receiving court*
15 *of the person's permanent residency in the receiving county.*

16 (d) The order of transfer shall contain an order committing the
17 probationer to the care and custody of the probation officer of the
18 receiving county and an order for reimbursement of reasonable
19 costs for processing the transfer to be paid to the sending county
20 in accordance with Section 1203.1b. A copy of the orders and
21 probation reports shall be transmitted to the court and probation
22 officer of the receiving county within two weeks of the finding by
23 that county that the person does permanently reside in or has
24 permanently moved to that county, and thereafter the receiving
25 court shall have entire jurisdiction over the case, with the like
26 power to again request transfer of the case whenever it seems
27 proper.

28 SEC. 2. Notwithstanding Section 17610 of the Government
29 Code, if the Commission on State Mandates determines that this
30 act contains costs mandated by the state, reimbursement to local
31 agencies and school districts for those costs shall be made pursuant
32 to Part 7 (commencing with Section 17500) of Division 4 of Title
33 2 of the Government Code. If the statewide cost of the claim for
34 reimbursement does not exceed one million dollars (\$1,000,000),
35 reimbursement shall be made from the State Mandates Claims
36 Fund.

37 SEC. 3. *This act is an urgency statute necessary for the*
38 *immediate preservation of the public peace, health, or safety*
39 *within the meaning of Article IV of the Constitution and shall go*
40 *into immediate effect. The facts constituting the necessity are:*



- 1 *In order to assure effective administration of special probation*
- 2 *transfer procedures as soon as possible, it is necessary that this act*
- 3 *take effect immediately.*

