

Intercounty Probation Case Transfer Statewide Fiscal Procedures

1. Background

Penal Code section 1203.9 governs intercounty transfers of probation and mandatory supervision cases. On September 3, 2015, [Assembly Bill 673](#) (Stats. 2015, ch. 251) amended [Penal Code section 1203.9](#) to, among other things, establish responsibility for the collection of any court-ordered debt that is unpaid at the time a case is transferred. The statute provides that if the transferring court has ordered the defendant to pay fines, fees, forfeitures, penalties, assessments, or restitution, the transfer order shall require that those and any other amounts ordered by the transferring court, that are still unpaid at the time of transfer, be paid by the defendant to the collection program for the transferring court for proper distribution and accounting once collected. Nonetheless, with the transferring court's approval, the receiving court may elect to collect all of the court-ordered payments from a defendant.

The following procedures for the collection, accounting, and distribution of any outstanding fines, fees, forfeitures, penalties, assessments, and restitution from a transferred case, must be followed by the transferring court, and receiving court, county agency, or its authorized collection program.

2. Terms As Used in This Procedure

(1) "Transferring court" means the superior court of the county in which the supervised person is supervised, on probation, or on mandatory supervision.

(2) "Receiving court" means the superior court of the county to which transfer of the case and probation or mandatory supervision is proposed.

(3) "County Agency" means any agency within the county such as the Department of Revenue, Probation Department, or the Treasurer and Tax Collector.

(4) "Collection program" means a superior court, county, private vendor, intrabranch program, or Franchise Tax Board authorized to collect unpaid court-ordered fines, fees, forfeitures, penalties, assessments, and restitution.

(5) "Administrative fee" as referenced in [Penal Code section 1203.9](#) means the *actual* collections cost that a receiving court may charge for collecting unpaid court-ordered fines, fees, forfeitures, penalties, and assessments from a defendant on behalf of the transferring court or its authorized collection program. These fees are in addition to any administrative fee assessed for administering an accounts receivables or installment payment plan ([Pen. Code, § 1205\(e\)](#)) and the 15 percent (15%) that can be added to the total amount ordered to offset the administrative cost of collecting restitution ([Pen. Code, § 1203.1\(l\)](#)).

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(6) “Additional local fees and costs” as referenced in Penal Code section 1203.9(d)(2) means any fees or costs authorized by Board of Supervisors resolution, local county ordinance, or California code that may be imposed by a receiving court or receiving county probation department.

3. The Order for Transfer

If the transferring court determines that the permanent residence of the supervised person is in the county of the receiving court, the transferring court must transfer the case, unless it determines that transfer would be inappropriate and states its reasons on the record. ([Cal. Rules of Court, rule 4.530\(g\)\(1\).](#))

The transferring court shall do the following as it pertains to the transfer order:

- Complete and file form [CR-250, Notice and Motion for Transfer.](#)
- Complete and file form [CR-251, Order for Transfer.](#)
- Include an order committing the defendant to the care and custody of the probation officer of the receiving court and an order for reimbursement of reasonable costs for processing the transfer to be paid to the county of the transferring court in accordance with [Penal Code section 1203.1b.](#) ([Cal. Rules of Court, rule 4.530\(g\)\(4\)](#)); [Pen. Code, § 1203.9 \(c\).](#))
- Upon transfer of the case, transmit the entire original court file to the receiving court in all cases in which the supervisee is the sole defendant, except the transferring court shall not transfer (a) exhibits, or (b) any records of payments. If the transfer is ordered in a case involving more than one defendant, the transferring court must transmit certified copies of the entire original court file, except exhibits and any records of payments, to the receiving court upon transfer of the case. ([Cal. Rules of Court, rule 4.530\(g\)\(5\).](#))
- Upon transfer, the probation officer of the transferring county must transmit, at a minimum, any court orders, probation or mandatory supervision reports, case plans, and case plans to the probation officer of the receiving court. ([Cal. Rules of Court, rule 4.530\(g\)\(6\).](#))
- The court file should include all financial information, such as:
 - The total amount of outstanding debt/accounts receivables.
 - The installment payment amount and due date.
 - Specific fine, fee, penalty assessment, and restitution amounts that were assessed and the current balance of each assessment, including the amount and type of administrative fee(s) assessed under [Penal Code section 1205\(e\).](#)
- State on the record who is the responsible entity for collecting payments from the defendant; transferring or receiving court (or its authorized collection program).

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4. Collections

There are two options in intercounty transfers regarding the collection of unpaid fines, fees, forfeitures, penalties, assessments, and restitution:

- a. Transfers where the transferring court or county agency is responsible for collections.
- b. Transfers where the receiving court or county agency is responsible for collections.

4a. Transfers where the transferring court or county agency is responsible for collections:

The transferring court or county agency, or its authorized collection program, shall do the following:

- Collect all unpaid court-ordered fines, fees, forfeitures, penalties, assessments, and restitution included in a transfer order, using the guidelines and practices established by [Penal Code section 1463.010](#).
- Collect any local fees or costs imposed by the receiving court or receiving county probation department, upon receiving notification from the receiving court, county agency, or its authorized collection program of the amount imposed and the installment payment amount. ([Pen. Code, § 1203.9\(d\)\(3\).](#)) Remit all revenue collected to the receiving court, for proper accounting and distribution, using established practices for the deposit and accounting of all collected court-ordered debt.
- Refer to the Judicial Council's *Guidelines and Standards for Cost Recovery* available at <http://www.courts.ca.gov/partners/455.htm>.

4b. Transfers where the receiving court or county agency is responsible for collections

With approval from the transferring court, the receiving court may elect to collect all of the court-ordered payments from a defendant, including any fines, fees, forfeitures, penalties, assessments, restitution, or any other amounts ordered by the transferring court. ([Pen. Code, § 1203.9\(e\)\(1\).](#)) If the receiving court chooses to collect, the receiving court, county agency, or its authorized collection program shall do the following:

- Collect on behalf of the transferring court all unpaid fines, fees, forfeitures, penalties, assessments, restitution, and any other amounts, using the guidelines and practices established by [Penal Code section 1463.010](#).
- Mail a notice to the defendant informing them of the unpaid balance amount and direct them to submit payment to the authorized collection program.
- Notify the transferring court, county agency, and/or its authorized collection program of any change (to case file) resulting from the imposition of local fees and costs (including the total amount imposed, installment payment amount, and due date). ([Pen. Code, § 1203.9\(d\)\(2\).](#))
- Notify the defendant of any additional local fees or costs imposed and direct them to make payments to the authorized collection program.

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- Notify the transferring court of any change to case status. For example, if a case transferred as non delinquent becomes delinquent while the receiving court is collecting, the transferring court must be notified. The notice should include the date the case became delinquent.
- Add a fee to offset the cost of administering an installment payment or accounts receivable plan for a transferred case ([Pen. Code, § 1205\(e\)](#)), only if the fee **has not** been previously added by the transferring court.
- Remit gross collections to the transferring court and charge (invoice) for administrative fees equal to the *actual* cost of collecting unpaid court-ordered fines, fees, forfeitures, penalties, and assessments, and up to 15 percent (15%) for restitution, as agreed to in writing. (See sample agreement.)

5. Victim Restitution

If victim restitution was ordered as a condition of probation or mandatory supervision, the transferring court shall determine the amount of restitution *before* the transfer unless the court finds that the determination cannot be made within a reasonable time from when the motion for transfer is made. If the case is transferred without a determination of the amount of restitution, the transferring court must complete the determination as soon as practicable. ([Pen. Code, § 1203.9 \(a\)\(3\).](#))

- If the transferring court makes a determination after the transfer, the receiving court must be notified of the restitution amount.
- If the receiving court, county agency, or its authorized collection program obtains any information on the victim or if the victim submits a claim, the transferring court should be contacted to expedite the completion of the determination.

6. Transfer Fee

The order for transfer shall contain, if applicable, an order for reimbursement of reasonable costs for processing the transfer to be paid to the transferring county in accordance with Penal Code section 1203.1b. ([Pen. Code, § 1203.9\(c\).](#))

- Transfer fees must be ordered by the transferring court at the time the transfer order is made.
- Reasonable costs ordered for processing the transfer shall not exceed actual cost.
- The transferring court must notify the defendant of the order for reimbursement of reasonable costs, including the total amount ordered.

7. Additional Local Fees and Costs

The receiving court and receiving county probation department may impose additional local fees and costs as authorized, and shall notify the authorized collection program for the transferring court of those changes. ([Pen. Code, § 1203.9\(d\)\(2\).](#))

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8. Payments, Distribution, and Accounting

The transferring court will perform all distribution activities for any and all revenue collected from a transferred case. The SCO's [Trial Court Revenue Distribution Guidelines](#) (formerly Appendix C) and [Assembly Bill 3000 Court Surcharge Distribution Guidelines](#) may be used as references.

- The transferring or receiving court, county agency, and its authorized collections program must notify each other of any and all payments made.
- All payments made by the defendant shall be remitted to the transferring court for distribution.
- The transferring court, county agency, or its authorized collection program will perform all accounting activities for any and all revenue collected from a transferred case, including any local fees or costs imposed by the receiving court or receiving county probation department, using established practices for the deposit and accounting of all collected court-ordered debt.
- The receiving court must deposit all revenue collected in a separate account for remittance to the transferring court, using established practices for the deposit and accounting of all collected court-ordered debt.
- The receiving court shall not perform distribution activities on any amount of revenue collected, including any local fees or costs imposed by the receiving court or receiving county probation department.

9. Cost of Collections

All operating costs associated with the collection of **delinquent** fines, fees, forfeitures, penalties, assessments, or any other amounts ordered, including any additional local fees or costs imposed by the receiving court, are recoverable under [Penal Code section 1463.007](#). Costs associated with the collection of victim restitution are recoverable, up to 15 percent (15%). ([Pen. Code, § 1203.1\(1\)](#).) Refer to the Judicial Council's *Guidelines and Standards for Cost Recovery*, available at <http://www.courts.ca.gov/partners/455.htm>.

10. Reporting

- The receiving court, county agency, or its authorized collection program shall not report revenue owed or collected on behalf of the transferring court on the annual [Collections Reporting Template](#).
- The transferring court shall report all revenue collected from transferred cases on the Annual Financial Report, per the [Collections Reporting Template Instructions](#), the [Report of Revenue \(ROR\)](#), the [State Controller's Office TC 31](#) report, and any other reports, as required or mandated.