

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

SUPREME COURT  
**FILED**

AUG 03 2017

Jorge Navarrete Clerk

Deputy

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff and Appellant,

v.

STEVEN ANDREW ADELMANN,

Defendant and Respondent.

S237602

Court of Appeal

No. E064099

(Riverside  
County Superior  
Court No.  
SWF1208202)

**MOTION FOR JUDICIAL NOTICE OF (1) LEGISLATIVE  
HISTORY OF THE 2009 AMENDMENT TO PENAL CODE  
SECTION 1203.9, AND (2) 2015 JUDICIAL COUNCIL REPORT  
REGARDING CASE MANAGEMENT SYSTEM FUNDING**

[Evid. Code, § 459; Rule of Court 8.252]

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Attorney for Respondent

STEVEN ANDREW ADELMANN

## SUMMARY OF ARGUMENT

Pursuant to Evidence Code sections 452, subdivision (d) and 459, subdivision (a), and California Rules of Court, rules 8.54(a) and 8.252(a), respondent Steven Andrew Adelman respectfully moves this Court for an order taking judicial notice of (1) legislative history of the 2009 amendment to Penal Code section 1203.9, and (2) 2015 Judicial Council memorandum regarding case management system funding. A copy of the legislative history is attached hereto as Exhibit A. A copy of the Judicial Council memo is attached hereto as Exhibit B.<sup>1</sup>

Existence *and* contents of these documents are relevant to respondent's arguments made in the brief responding to the amicus curiae brief filed by the California Public Defender's Association and Law Office of the Public Defender for Riverside County (collectively, "CPDA" or "amici"). The legislative history is relevant to demonstrate that Penal Code section 1203.9 transfers are (and were

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<sup>1</sup> It can also be found online at <http://www.courts.ca.gov/documents/jc-20150417-itemG.pdf> (as of July 24, 2017).

intended to be) *complete* jurisdictional transfers, and that by enacting Proposition 47, the voters did not intend to abandon or overcome the jurisdictional nature of those transfers in Proposition 47 cases. It also necessary to demonstrate significant practical consequences flowing from the CPDA's (and the People's) proposed reading of the statutes.

The Judicial Council report is relevant to show that contrary to amici's argument, there is no statewide unified case management system that would negate the practical difficulties for forcing section 1203.9 transferees to seek Proposition 47 relief in a county that does not have their court file.

### **Argument**

#### **A. The Subject Documents Are a Proper Subject of Judicial Notice**

Evidence Code section 459 provides that "a reviewing court may take judicial notice of any matter specified in Section 452."

It is well established that courts can take judicial notice of official records of Judicial Council of California. (*Whittaker v.*

*Superior Court* (1968) 68 Cal.2d 357, 362, fn. 4 [official records of the Judicial Council are proper matters for judicial notice]; *Butler-Rupp v. Lourdreaux* (2007) 154 Cal.App.4th 918, 926 [appellate court took judicial notice of Judicial Council report prepared in connection with revision of a court rule]; *Vidrio v. Hernandez* (2009) 172 Cal.App.4th 1443, 1457, fn. 7 [appellate court took judicial notice of reports to Judicial Council recommending amendment to a rule of court].)

Similarly, legislative history of a statute (such as committee reports, statements of legislative purpose, and analysis of prior versions of the bill, which shed light on how the Legislature arrived at the ultimately enacted statute) is properly subject to judicial notice. (*Hutnick v. United States Fidelity & Guaranty Co.* (1988) 47 Cal.3d 456, 465, fn. 7; accord *People v. Superior Court* (2005) 132 Cal.App.4th 1525, 1532.)

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**B. The Subject Documents Are Relevant In This Case**

The legislative history of the 2009 amendment to section 1203.9 is relevant to establish the jurisdictional nature of the section 1203.9 transfers. It is also relevant to demonstrate significant practical problems that would flow from the CPDA's proposed reading of sections 1170.18 and 1203.9. In amending section 1203.9 in 2009, the Legislature attempted to address problems arising out of then-existing non-jurisdictional "courtesy" probation transfers. Under that regime, as many as 10 to 40 percent of probationers had lived in a county other than the one that had legal jurisdiction over their case. This resulted in duplication of probationary efforts and public safety concerns. (Respondent's Brief in Reply to CPDA Amicus Brief, pp. 7-8, 19-24.)

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Also, the Judicial Council memo is relevant to respond to CPDA's argument that improperly minimizes practical difficulties resulting from forcing section 1203.9 transferees to seek Proposition 47 relief away from the court that has their file. CPDA's brief dismisses these concerns based, in significant part, on the supposed existence of a single statewide case management system. (CPDA's brief, p. 7.) This memo shows that there is presently no single statewide case or document management system. (Respondent's Brief in Reply to CPDA Amicus Brief, pp. 7-8.)

### CONCLUSION

For the foregoing reasons, this Court should take judicial notice of existence and contents of (1) legislative history of the 2009 amendment to Penal Code section 1203.9; (2) 2015 Judicial Council Memo regarding case management system funding.

DATE: August 2, 2017

By: \_\_\_\_\_

Gene D. Vorobyov  
Attorney for Appellant  
STEVEN ADELMANN

**[proposed] ORDER GRANTING MOTION FOR JUDICIAL  
NOTICE**

BY THE COURT:

Good cause appearing, this Court takes judicial notice of the following documents:

- Legislative history of the 2009 amendment to Penal Code section 1203.9;
- 2015 Judicial Council Memo regarding case management system funding.

It is so ordered.

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CHIEF JUSTICE

## PROOF OF SERVICE

I declare that I am over the age of 18, not a party to this action and my business address is 450 Taraval Street, # 112, San Francisco, CA 94116. Pursuant to California Rule of Court 8.71, on the date shown below, I transmitted a PDF version of APPELLANT'S MOTION FOR JUDICIAL NOTICE AND PROPOSED ORDER GRANTING THE MOTION to the following e-mail addresses:

Donald W. Ostertag, Deputy District Attorney (Via Truefiling)

Howard C. Cohen, Staff Attorney, Appellate Defenders, Inc.  
(Via Truefiling)

Laura Arnold, Deputy Public Defender (Via Truefiling)

I declare under penalty of perjury the foregoing is true and correct.

Executed on August 3, 2017, at San Francisco, California.

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/s/ Gene D. Vorobyov



# **Respondent's Request for Judicial Notice**

## **Exhibit A**

[Legislative History of 2009 amendment to Penal Code § 1203.9]



588

**Judicial Council of California**

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

770 "L" Street, Suite 700 • Sacramento, California 95814-3393  
Telephone 916-323-3121 • Fax 916-323-4347 • TDD 800-735-2929

RONALD M. GEORGE  
*Chief Justice of California*  
*Chair of the Judicial Council*

WILLIAM C. VICKREY  
*Administrative Director of the Courts*

RONALD G. OVERHOLT  
*Chief Deputy Director*

CURTIS L. CHILD  
*Director, Office of Governmental Affairs*

September 30, 2009

Hon. Arnold Schwarzenegger  
Governor of California  
State Capitol, First Floor  
Sacramento, California 95814

Subject: SB 431 (Benoit) – Request for Signature

Dear Governor Schwarzenegger:

The Judicial Council supports SB 431, which would require a court, when granting probation to an individual who permanently resides in a county other than the county of conviction, to transfer legal jurisdiction of the case to the county in which that person permanently resides, unless the court determines on the record that the transfer would be inappropriate. The bill also requires the court in the county of the probationer's residence to accept legal jurisdiction over the case. Lastly, the Judicial Council would be required to adopt rules of court providing factors for the court's consideration when determining the appropriateness of a transfer.

The Judicial Council supports SB 431 because it would address issues and concerns that have been raised over the years about the disparate transfer practices and around the state.

In December 2008, Chief Probation Officers of California (CPOC) asked the Judicial Council's Criminal Law Advisory Committee (CLAC) to work with them to develop ways to improve the handling of cross-jurisdictional probation transfers. A workgroup was formed to resolve these issues collaboratively. The workgroup's goal was to revise the statutory transfer process to improve public safety by making probation supervision more effective and enhancing the efficiency of case transfers. This would require improving the process of identifying the most appropriate jurisdiction for probation supervision, and improving the actual process of transferring jurisdiction.

Hon. Arnold Schwarzenegger

September 30, 2009

Page 2

The council and CPOC ultimately agreed that permanent residency should be the primary, but not exclusive, determinant of where probation and legal jurisdiction should lie. Other factors are also important, such as the availability of appropriate programs in the receiving county. Therefore, the bill would create a presumption that legal jurisdiction and probation supervision shall be where the probationer permanently resides, but would allow the transferring court to overcome the presumption if it determines that the transfer would be inappropriate and states its reasons on the record.

The bill also eliminates the concept of courtesy supervision from the law. In the absence of clear statutory directive, courtesy supervision has come to mean different things to different counties, but generally is an informal arrangement between probation departments that does not require transferring legal jurisdiction to the receiving county's court. The result is often less than adequate supervision of a probationer, and courts and probation departments often are not always aware of where their probationers are or of how many probationers residing in their county were granted probation in a different county.

The bill sets up a process whereby courts and probation departments in both the sentencing county and the receiving county must work closely together within specific timeframes, but provides that only one court – the sentencing court – should have authority to decide not to transfer a case upon determining permanent residence elsewhere.

For these reasons, the Judicial Council requests your signature on SB 431.

Sincerely,



June Clark  
Senior Attorney

JC/yt

cc: Ms. Karen Pank, Executive Director, Chief Probation Officers of California  
Hon. John Benoit, Member of the Senate  
Mr. Mike Pro시오, Chief Deputy, Legislative Affairs Secretary, Office of the Governor  
Ms. Kirsten Kolpitcke, Deputy Director of Legislation, Governor's Office of Planning and Research

**ENROLLED BILL MEMORANDUM TO GOVERNOR**

**BILL:** SB 431      **AUTHOR:** Benoit      **DATE:** 9/10/09      **DUE:** 10/11/09  
**SENATE:** 36-0      **ASSEMBLY:** 74-0      **CONCURRENCE:** 35-0  
**PRESENTED BY:** Aaron Maguire      **RECOMMEND:** Sign  Veto

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**SUMMARY**

This bill will provide that when a person is released upon probation, the court, upon noticed motion, shall transfer the case to a superior court in the county in which the person resides permanently, unless there is a determination that the transfer will be inappropriate and states the reasons on the record.

**SPONSOR:** Chief Probation Officers of California  
**SUPPORT:** Governor's Office of Planning and Research  
Department of Finance  
California Peace Officers' Association  
California Probation, Parole and Correctional Association  
CRLA Foundation  
Golden State Manufactured-Home Owners League  
League of California Cities  
Western Center on Law & Poverty  
**OPPOSITION:** None Received

**FISCAL IMPACT**

The Judicial Council notes that the required adoption of rules of court providing factors for the court's consideration when determining the appropriateness of a transfer will result in one-time, minor, and fully absorbable costs. The Judicial Council has existing, ongoing resources dedicated to the development and adoption of such rules.

**PREVIOUS ACTION/SIMILAR LEGISLATION**

AB 1306 (Leno, Chapter 30, Statutes of 2004) authorized a court to transfer probation and jurisdiction to the defendant's county of permanent residence if he or she is receiving treatment pursuant to Proposition 36.

**NOTES**

UNOFFICIAL BALLOT

2009-2010 Votes - ROLL CALL

MEASURE: SB 431  
 TOPIC: Probation: transfers.  
 DATE: 08/17/09  
 LOCATION: SEN. FLOOR  
 MOTION: Special Consent #14 SB431 Benoit  
 (AYES 35. NOES 0.) (PASS)

AYES  
 \*\*\*\*

Aanestad	Alquist	Ashburn	Benoit
Calderon	Cedillo	Cogdill	Corbett
Correa	Cox	Denham	DeSaulnier
Dutton	Florez	Hancock	Harman
Hollingsworth	Huff	Kehoe	Leno
Liu	Lowenthal	Negrete McLeod	Padilla
Pavley	Price	Runner	Simitian
Steinberg	Strickland	Walters	Wiggins
Wolk	Wyland	Yee	

NOES  
 \*\*\*\*

NO VOTE RECORDED

\*\*\*\*\*

Ducheny	Maldonado	Oropeza	Romero
Wright			

UNOFFICIAL BALLOT

2009-2010 Votes - ROLL CALL

MEASURE: SB 431  
 TOPIC: Probation: transfers.  
 DATE: 07/09/09  
 LOCATION: ASM. FLOOR  
 MOTION: SB 431 Benoit Consent Calendar Second Day Regular Session  
 (AYES 74. NOES 0.) (PASS)

AYES  
\*\*\*\*

Adams	Ammiano	Anderson	Arambula
Beall	Bill Berryhill	Tom Berryhill	Blakeslee
Block	Blumenfield	Brownley	Buchanan
Caballero	Carter	Chesbro	Conway
Cook	Coto	Davis	De La Torre
De Leon	DeVore	Emmerson	Eng
Evans	Feuer	Fletcher	Fong
Fuentes	Fuller	Furutani	Gaines
Galgiani	Garrick	Gilmore	Hagman
Hall	Harkey	Hayashi	Hernandez
Hill	Huber	Huffman	Jeffries
Knight	Lieu	Logue	Bonnie Lowenthal
Ma	Mendoza	Miller	Monning
Nestande	Niello	Nielsen	John A. Perez
V. Manuel Perez	Portantino	Ruskin	Salas
Saldana	Silva	Skinner	Smyth
Solorio	Audra Strickland	Swanson	Torlakson
Torres	Torrico	Tran	Villines
Yamada	Bass		

NOES  
\*\*\*\*

ABSENT, ABSTAINING, OR NOT VOTING  
\*\*\*\*\*

Charles Calderon	Duvall	Jones	Krekorian
Nava	Vacancy		

UNOFFICIAL BALLOT

2009-2010 Votes - ROLL CALL

MEASURE: SB 431  
 TOPIC: Probation: transfers.  
 DATE: 05/11/09  
 LOCATION: SEN. FLOOR  
 MOTION: Special Consent #3 SB431 Benoit  
 (AYES 36. NOES 0.) (PASS)

AYES  
 \*\*\*\*

Aanestad  
 Cogdill  
 Denham  
 Florez  
 Huff  
 Lowenthal  
 Padilla  
 Steinberg  
 Wolk

Alquist  
 Corbett  
 DeSaulnier  
 Hancock  
 Kehoe  
 Maldonado  
 Pavley  
 Strickland  
 Wright

Ashburn  
 Correa  
 Ducheny  
 Harman  
 Leno  
 Negrete McLeod  
 Romero  
 Walters  
 Wyland

Benoit  
 Cox  
 Dutton  
 Hollingsworth  
 Liu  
 Oropeza  
 Runner  
 Wiggins  
 Yee

NOES  
 \*\*\*\*

NO VOTE RECORDED

\*\*\*\*\*

Calderon

Cedillo

Simitian

Vacancy



<b>CONFIDENTIAL-Government Code §6254(l)</b>		
<b>DEPARTMENT/BOARD:</b> OFFICE OF PLANNING AND RESEARCH - LEGISLATIVE UNIT	<b>AUTHOR:</b> BENOIT	<b>BILL NUMBER/VERSION</b> <b>DATE:</b> SB 431 JUNE 4, 2009
<b>SPONSOR:</b> CHIEF PROBATION OFFICERS OF CALIFORNIA <input type="checkbox"/> ADMIN SPONSORED      PROPOSAL No.	<b>RELATED BILL(S)</b> N/A	<b>CHAPTERING ORDER (IF KNOWN)</b> N/A <input type="checkbox"/> ATTACHMENT
<b>SUBJECT:</b> PROBATION: TRANSFERS.		

**SUMMARY**

This bill would provide that when a person is released upon probation, the court, upon noticed motion, shall transfer the case to a superior court in the county in which the person resides permanently, unless there is a determination that the transfer would be inappropriate and states the reasons on the record.

**RECOMMENDATION AND SUPPORTING ARGUMENTS**

**SIGN.** This bill would clarify the law governing jurisdiction over probation to provide more effective supervision of probationers who live in a county other than the one in which they were sentenced.

**PURPOSE OF THE BILL**

The Chief Probation Officers of California is the sponsor of this bill.

When a person is convicted of a criminal offense, the sentencing court may impose probation in lieu of jail time or a fine. The probation order generally contains numerous terms and conditions, the breach of which will lead to the revocation of probation. Each county maintains a probation department which supervises probationers to ensure that these terms and conditions are met. While most offenders are residents of the county in which they were prosecuted, some are not. In either case, the county of the sentencing court is initially given jurisdiction over the case. Although the county probation department may seek to have jurisdiction transferred to the county of

<b>DEPARTMENTS THAT MAY BE AFFECTED</b>			
<input type="checkbox"/> NEW / INCREASED FEE	<input type="checkbox"/> GOVERNOR'S APPOINTMENT	<input type="checkbox"/> LEGISLATIVE APPOINTMENT	<input type="checkbox"/> STATE MANDATE <input type="checkbox"/> URGENCY CLAUSE
<b>POSITION</b> <input checked="" type="checkbox"/> SIGN <input type="checkbox"/> VETO <input type="checkbox"/> DEFER TO:			
<b>DEPUTY DIRECTOR</b> <i>Thomas E. Towne</i>	<b>DATE</b> 8/18/09	<b>DIRECTOR</b> <i>Cynthia Berg</i>	<b>DATE</b> 8-20-09



residence, the county of residence is not required to accept the transfer. Consequently, a probationer may be supervised by a probation department in a county other than the one in which he or she resides, or by both probation departments. According to the author, the former scenario is impractical, while the latter is duplicative and wasteful. Accordingly, the author has introduced SB 431, which would provide that when a person is released upon probation and there is noticed motion, jurisdiction over the case must be transferred to the superior court in the county in which the person resides permanently, unless there is a determination that the transfer would be inappropriate. In so doing, the author hopes to ensure that a probationer is supervised by the probation department in his or her county of residence.

### **ANALYSIS**

Existing law (Penal Code section 1203.9(a)) provides that, when a person is released upon probation, the case *may* be transferred to a court of the same rank in another county in which the person resides permanently (i.e. a county in which the person has stated an intention to remain for the duration of probation), provided that the court of the receiving county is first given an opportunity to determine whether the person does reside in and has stated an intention to remain in that county for the duration of probation. 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, the court may refuse to accept the transfer. The court and the probation department must give the matter of investigating those transfers precedence over all other actions or proceedings, except actions or proceedings to which special precedence is given by law, to the end that all those transfers are completed expeditiously.

This bill would provide that, whenever a person is released upon probation, the court, upon noticed motion, shall transfer the case to the superior court in another county in which the person resides permanently, unless the transferring court determines that the transfer would be inappropriate and states its reasons on the record. Upon notice of the motion for transfer, the court of the proposed receiving county may provide comments for the record regarding the proposed transfer. Judicial Council would be required to develop rules of court for this purpose.

Existing law (Penal Code section 1203.9(b)) provides that, if the court of the receiving county finds that the person does permanently reside in or has permanently moved to the county, the court *may*, in its discretion, either accept the entire jurisdiction over the case, or assume supervision of the probationer on a courtesy basis.

This bill would provide that the court of the receiving county shall accept the entire jurisdiction over the case.

Existing law (Penal Code section 1203.9(c)) provides that, if a person is granted probation for a nonviolent drug possession offense under Proposition 36, the sentencing court *may*, in its discretion, transfer jurisdiction of the entire case, upon a finding by the receiving court of the person's permanent residency in the receiving county.

This bill would provide that, if a person is granted probation for a nonviolent drug possession offense under Proposition 36, the sentencing court shall transfer jurisdiction of the entire case, upon a finding by the receiving court of the person's permanent residency in the receiving county, unless there is a determination on the record that the transfer would be inappropriate.

Existing law (Penal Code section 1203.9(d)) provides that the order of transfer must contain an order committing the probationer to the care and custody of the probation officer of the receiving

county and an order for reimbursement of reasonable costs for processing the transfer, to be paid to the sending county. A copy of the orders and probation reports must be transmitted to the court and probation officer of the receiving county within two weeks of the finding by that county that the person does permanently reside in or has permanently moved to that county, and thereafter the receiving court has entire jurisdiction over the case, with the like power to again request transfer of the case if it seems proper.

This bill would delete the requirement that the finding be done "by the county" and provide that the Judicial Council promulgate rules of court for procedures by which the proposed receiving county shall receive notice of the motion for transfer and by which responsive comments may be transmitted to the court of the transferring county. The Judicial Council must adopt rules providing factors for a court's consideration when determining the appropriateness of a transfer, including the following:

- Permanency of residence of the offender.
- Local programs available for the offender.
- Restitution orders and victim issues.

#### Discussion

This bill would clarify the law governing jurisdiction over probation to provide more effective supervision of probationers who live in a county other than the one in which they were sentenced. Counties are divided over the jurisdiction issue that results when a probationer resides in one county, but was sentenced in another. Although some counties are reluctant to accept jurisdiction in these cases, the state has an interest in ensuring that criminal offenders are properly supervised. Transferring counties that wish to retain jurisdiction over a probationer who resides in a different county – if, for example, the probationer has substantial contacts with the sentencing county – would be entitled to maintain sole jurisdiction under this bill, if the sentencing court makes a finding that transfer would be inappropriate.

#### **LEGISLATIVE HISTORY**

##### Previous Legislation

Assembly Bill 306 (Aguiar, Chapter 273, Statutes of 1993) authorized a court to order a probationer to pay all or a portion of the reasonable costs of processing a transfer to supervision in another county and of processing a request for out-of-state supervision; required the order of transfer committing a probationer to the care and custody of the probation officer of another county to contain an order for reimbursement of reasonable costs of processing the transfer to be paid to the sending county; required a probationer to reimburse the county that has jurisdiction over his or her probation case for the reasonable cost of processing his or her request for interstate compact supervision; and included specified factors for an "ability to pay" determination.

Assembly Bill 1306 (Leno, Chapter 30, Statutes of 2004) authorized a court to transfer probation and jurisdiction to the defendant's county of permanent residence if he or she is receiving treatment pursuant to Proposition 36.

#### **PROGRAM BACKGROUND**

Under Proposition 36, approved by California voters in 2000, an offender convicted of a nonviolent drug possession offense is generally sentenced to probation, instead of state prison, county jail, or probation (without drug treatment). As a condition of probation, the offender is required to complete a drug treatment program. Proposition 36 defined a nonviolent drug possession offense as a felony or misdemeanor criminal charge for being under the influence of illegal drugs or for

possessing, using, or transporting illegal drugs for personal use. The definition excludes cases involving possessing for sale, producing, or manufacturing of illegal drugs.

**OTHER STATES' INFORMATION**

No information has been obtained.

**FISCAL IMPACT**

No appropriation is provided. This bill would not create a state-mandated local program.

**ECONOMIC IMPACT**

This bill would not appear to have an adverse impact on the state's economic or business climate.

**LEGAL IMPACT**

This bill would not appear to result in any increased liability for the state or conflict with any state or federal laws.

**SUPPORT/OPPOSITION**

Support: Chief Probation Officers of California; California Probation, Parole and Correctional Association; Judicial Council of California and Taxpayers for Improving Public Safety.

Opposition: This bill has no known opposition.

**ARGUMENTS**

Pro: This bill would clarify the law governing jurisdiction over probation to provide more effective supervision of probationers who live in a county other than the one in which they were sentenced.

Con: Some counties may not wish to supervise probationers that were convicted of a crime in a different county.

**VOTES:**

Senate – May 11 2009

Ayes – 36

Noes – 0

Assembly – July 9, 2009

Ayes – 74

Noes – 0

Concurrence – August 18, 2009

Ayes – 35

Noes – 0

**LEGISLATIVE STAFF CONTACT**

Contact	Work
Cynthia Bryant, Director	445-3637
Cathleen Cox, Chief Deputy Director	322-2318
Kirstin Kolpitzke, Deputy Director	445-4831

DEPARTMENT OF FINANCE ENROLLED BILL REPORT

AMENDMENT DATE: June 4, 2009  
 RECOMMENDATION: Sign

BILL NUMBER: SB 431  
 AUTHOR: J. Benoit

ASSEMBLY: 74/0  
 SENATE: 35/0

**BILL SUMMARY: Probation: Transfers**

This bill would require that a court transfer a person released on probation to a court in the county in which the person resides permanently, with specified exceptions.

**FISCAL SUMMARY**

The Judicial Council notes that the required adoption of rules of court providing factors for the court's consideration when determining the appropriateness of a transfer would result in one-time, minor, and fully absorbable costs. The Judicial Council has existing, ongoing resources dedicated to the development and adoption of such rules.

**COMMENTS**

Finance recommends that this bill be signed as it might help ensure appropriate supervision of probationers depending on their county of residence.

This bill would require that a case for a person released on probation be transferred to the court in the county in which the person resides permanently. According to an Assembly Committee on Public Safety analysis, the intent is to address the inadequate supervision that results from a person on probation residing in a county other than the sentencing county.

Under existing law, when a person is released upon probation, the case may be transferred to the court in the county in which the person resides permanently, under specified conditions. If a receiving 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.

The bill would require the Judicial Council to promulgate rules of court for procedures by which the proposed receiving county shall receive notice of the motion for transfer and by which responsive comments may be transmitted to the court of the transferring county. The Judicial Council would also have to adopt rules providing factors for the courts' consideration when determining the appropriateness of a transfer. The Judicial Council supports this measure.

Code/Department Agency or Revenue Type	(Fiscal Impact by Fiscal Year)								Fund Code	
	(Dollars in Thousands)									
	SO	LA	CO	PROP	RV	98	FC	FC		FC
0250/Jud Branch	SO	No							No/Minor Fiscal Impact	0001

Analyst/Principal 0211) J. Osborn <i>J. Osborn</i>	Date 8/19/09	Program Budget Manager Todd Jerue <i>Todd Jerue</i>	Date 8/19/09
Department Director <i>Miriam F. ...</i>	Date 8/19/09		

ENROLLED BILL REPORT

Form DE-43 (Rev. 03/05 Print)

SENATE RULES COMMITTEE	SB 431
Office of Senate Floor Analyses	
1020 N Street, Suite 524	
(916) 651-1520 Fax: (916)	
327-4478	

UNFINISHED BUSINESS

Bill No: SB 431  
 Author: Benoit (R) and Leno (D)  
 Amended: 6/4/09  
 Vote: 21

SENATE PUBLIC SAFETY COMMITTEE : 7-0, 4/28/09  
 AYES: Leno, Benoit, Cedillo, Hancock, Huff, Steinberg,  
 Wright

SENATE FLOOR : 36-0, 5/11/09 (Consent)  
 AYES: Aanestad, Alquist, Ashburn, Benoit, Cogdill,  
 Corbett, Correa, Cox, Denham, DeSaulnier, Ducheny,  
 Dutton, Florez, Hancock, Harman, Hollingsworth, Huff,  
 Kehoe, Leno, Liu, Lowenthal, Maldonado, Negrete McLeod,  
 Oropeza, Padilla, Pavley, Romero, Runner, Steinberg,  
 Strickland, Walters, Wiggins, Wolk, Wright, Wyland, Yee  
 NO VOTE RECORDED: Calderon, Cedillo, Simitian, Vacancy

ASSEMBLY FLOOR : 74-0, 7/9/09 (Consent) - See last page for  
 vote

SUBJECT : Adult probation: transfers

SOURCE : Chief Probation Officers of California

DIGEST : This bill requires that a court transfer a