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AB-673 Probation and mandatory supervision: jurisdiction. (2015-2016)

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Assembly Bill No. 673

CHAPTER 251

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

[Approved by Governor September 03, 2015. Filed with Secretary of State September 03, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 673, Santiago. Probation and mandatory supervision: jurisdiction.

Existing law requires a court to transfer the case of a person released on probation or mandatory supervision to the superior court in any other county in which the person resides permanently, unless the transferring court determines the transfer would be inappropriate and states its reasons on the record. Existing law requires the court of the receiving county to accept the entire jurisdiction over the case.

This bill would require the receiving court to accept the entire jurisdiction over the case effective the date the transferring court orders the transfer. The bill would provide that when fines, forfeitures, penalties, assessments, or restitution have been ordered by the transferring court and have not been fully paid, those payments would be made to the collecting program for the transferring court for distribution and accounting. The bill would authorize the receiving court and probation department to impose additional local fees and costs, as specified, and would authorize the collection program for the receiving court to collect court-ordered payments from the defendant for transmittal to the collection program for the transferring court, as specified. The bill would require the Judicial Council to consider adoption of rules of court as it deems appropriate to implement the collection, accounting, and disbursement requirements of the bill.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

1203.9. (a) (1) Except as provided in paragraph (3), whenever a person is released on probation or mandatory supervision, the court, upon noticed motion, shall transfer the case to the superior court in any other county in which the person resides permanently, meaning with the stated intention to remain for the duration of probation or mandatory supervision, unless the transferring court determines that the transfer would be inappropriate and states its reasons on the record.

(2) Upon notice of the motion for transfer, the court of the proposed receiving county may provide comments for the record regarding the proposed transfer, following procedures set forth in rules of court developed by the Judicial Council for this purpose, pursuant to subdivision (f). The court and the probation department shall give the matter of investigating those transfers precedence over all actions or proceedings therein, except actions or proceedings to which special precedence is given by law, to the end that all those transfers shall be completed expeditiously.

(3) 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 a case is transferred without a determination of the amount of restitution, the transferring court shall complete the determination as soon as practicable. In all other aspects, except as provided in subdivisions (d) and (e), the court of the receiving county shall have full jurisdiction over the matter upon transfer as provided in subdivision (b).

(b) The court of the receiving county shall accept the entire jurisdiction over the case effective the date that the transferring court orders the transfer.

(c) The order of transfer shall contain an order committing the probationer or supervised person to the care and custody of the probation officer of the receiving county and, if applicable, an order for reimbursement of reasonable costs for processing the transfer to be paid to the sending county in accordance with Section 1203.1b. A copy of the orders and any probation reports shall be transmitted to the court and probation officer of the receiving county within two weeks of the finding that the person does permanently reside in or has permanently moved to that county, and the receiving court shall have entire jurisdiction over the case, except as provided in subdivisions (d) and (e), with the like power to again request transfer of the case whenever it seems proper.

(d) (1) Notwithstanding subdivision (b) and except as provided in subdivision (e), 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.

(2) The receiving court and receiving county probation department may impose additional local fees and costs as authorized, and shall notify the responsible collection program for the transferring court of those changes.

(3) Any local fees imposed pursuant to paragraph (2) shall be paid by the defendant to the collection program for the transferring court which shall remit the additional fees and costs to the receiving court for proper accounting and distribution.

(e) (1) Upon approval of a transferring court, a receiving court may elect to collect all of the court-ordered payments from a defendant attributable to the case under which the defendant is being supervised, provided, however, that the collection program for the receiving court transmits the revenue collected to the collection program for the transferring court for deposit, accounting, and distribution. A collection program for the receiving court shall not charge administrative fees for collections performed for the collection program for the transferring court without a written agreement with the other program.

(2) A collection program for a receiving court collecting funds for a collection program for a transferring court pursuant to paragraph (1) shall not report revenue owed or collected on behalf of the collection program for the transferring court as part of those collections required to be reported annually by the court to the Judicial Council.

(f) The Judicial Council shall 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 shall adopt rules providing factors for the court's consideration when determining the appropriateness of a transfer, including, but not limited to, the following:

(1) Permanency of residence of the offender.

(2) Local programs available for the offender.

(3) Restitution orders and victim issues.

(g) The Judicial Council shall consider adoption of rules of court as it deems appropriate to implement the collection, accounting, and disbursement requirements of subdivisions (d) and (e).