

**PROBATION DEPARTMENT  
ADULT MANUAL**

<b>Chapter No.</b> 3206	<b>Page 1</b>
<b>Issue Date:</b>	<b>08/15/77</b>
<b>Revised:</b>	<b>12/17/19</b>

**Notes and  
References**

**JURISDICTIONAL TRANSFER PURSUANT TO PENAL CODE  
SECTION 1203.9**

I. General

- A. Penal Code Section 1203.9 indicates, 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.**

1203.9 PC

The Court shall consider the following factors when determining whether a transfer is appropriate:

1. Permanency of the probationer’s or supervised person’s residence: “Residence” means the place where the probationer or supervised person customarily lives exclusive of employment, school, or other special or temporary purpose. A probationer or supervised person may have only one residence. Intentions to move to another county for the duration of the probationary term, without further evidence of how, when, and why this is to be accomplished, is insufficient to transfer probation.
2. Availability of local programs: This includes substance abuse, domestic violence, sex offender, and collaborative court programs.
3. Restitution Orders: This includes consideration of whether the transfer would impair the ability of the receiving court to determine a restitution amount or impair the ability of the victim to collect court-ordered restitution.
4. Victim issues to be considered are: The residence and places frequented by the victim, including school and workplace; and whether the transfer would impair the ability of the Court, law enforcement, or the probation officer of the transferring county to properly enforce protective orders

1203.9 (e) PC

Cal Rules of  
Court Section  
4.530(f)

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**Jurisdictional Transfer Pursuant to Penal Code  
Section 1203.9(continued)**

**Notes and  
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- B. In new grants of probation for clients residing outside of Santa Barbara County at the time of sentencing, officers shall inquire about their intention to remain in their county of residence for the duration of their probation grant prior to preparing a motion.
- C. On existing grants of probation or mandatory supervision for clients requesting to relocate to another county, officers should be mindful that the client’s intention to move to another county for the duration of the probationary/mandatory supervision term, without further evidence of how, when, and why the move is to be accomplished, is insufficient to transfer probation/mandatory supervision. A viable plan and/or residence, as well as underlying reason for the move, should be evaluated by the officer for cases in which the defendant is moving out of the county. Clients already permanently residing out of county, or with a viable plan to relocate, should be given a travel permit as appropriate pending the outcome of the 1203.9 PC transfer process.

II. Process

A. **Outgoing Cases**

- 1. Within 30 days of becoming aware that a client’s permanent residence is in another county and all local custody time, i.e. jail term, EM, SWAP has been served, and the probationer is in good standing, the assigned Deputy Probation Officer (DPO) will notify the client that a hearing is being calendared for a Jurisdictional Transfer motion.
- 2. In cases where the client makes a request to have his/her probation/supervision transferred, the assigned DPO must decide within 30 days to calendar the hearing or not. Failure by the Probation Officer to notify the client of his/her decision is deemed a refusal to make the motion. If the DPO denies the client’s request, the DPO will send a letter (Pro 257-I) to the client stating the reason for the denial. The client may then file the motion himself/herself as outlined in 1203.9 PC.

Pro 257-I

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Section 1203.9(continued)**

**Notes and  
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Upon verifying that a client's case meets the criteria for a Jurisdictional Transfer and/or approving the client's request, the DPO will calendar the hearing according to the Santa Barbara County Superior Court's procedures, , and notify the client.

Pro 257

The DPO must file the 1203.9 PC Notice and Motion for Transfer/Order for Transfer (Pro 257-A) with the transferring Court and provide at least 70days notice to the following parties:

Pro 257-A  
(CR250, CR-251)

a. Receiving County Superior Court- the DPO will also include a Comments Form (Pro 257-B) which the transferring Court may complete and return no later than 10 days before the hearing date to the Transferring Court.

Pro-257-B

b. Receiving County Probation Department,-the DPO will send a Pre-Transfer packet which includes: Sentencing Report (if available), Original Crime Report, Orders for Supervision and any subsequent modifications, Custody Credits, Victim Information, Criminal Protective Orders (if in effect), Photo of person, Proof of Registration or Notice of Registration Requirement (§290 PC, §457.1 PC, §186.30 PC), any violations on the current grant of supervision along with dockets showing sentencing on the violation, financial information form (Pro 257-L), and Defendant Profile (Pro 257-G).

Pro 257-G

c. Santa Barbara County District Attorney's Office

d. Client's Counsel of Record

e. Client

f. Victim (if applicable), with the defendant's address redacted.

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Section 1203.9(continued)**

**Notes and  
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3. If the motion is granted, the assigned DPO must send the Order for Transfer (CR-251) signed by Judicial Officer and/or the Court docket granting the transfer and a Post Transfer packet which includes: 1203.9 PC Post Transfer Cover Sheet (Pro 257-P) and case plans to the Receiving County's Probation Department **within 10 calendar days**. DPO to also include any documents listed in Section II A, 2b, which were not previously provided in the Pre-Transfer Packet. The DPO will also send a letter to the client notifying of the transfer (Pro 257-F)
4. Probation is responsible to provide the updated financial information for felony cases.
5. The Court will be responsible for sending updated financial information on misdemeanor cases.
6. A 1203.9 PC Letter to Report to Receiving Probation Dept. (Pro 257-F) will be sent to the defendant directing him/her to report to the Receiving County Probation Department within 30 days (or sooner if so ordered by the Court).
7. If applicable, the DPO will notify the victim of the transfer of jurisdiction via a 1203.9 PC Victim Notification Letter (Pro 257-H).
8. The DPO will then prepare the file for closure.

Pro 257-F

Pro 257-H

**If the motion is denied by the Court, the defendant must return to Santa Barbara County.**

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**Jurisdictional Transfer Pursuant to Penal Code  
Section 1203.9(continued)**

**Notes and  
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**B. Incoming Cases**

1. Upon receiving a 1203.9 PC Notice and Motion for Transfer (CR-250) and a Pre-Transfer packet from the Sending (Transferring) County Probation Department, the assigned DPO shall mail a letter (Pro 257-C) to the defendant directing him/her to report to a scheduled office visit and provide proof of residence. If the defendant fails to appear for his/her scheduled appointment, a home visit is to be conducted for residence verification purposes. **At least 10 days prior** to the proposed transfer, the DPO will submit a Residence Verification Probation Memorandum (Pro 257-D) to the Criminal Courts Clerk responsible for jurisdictional transfers advising whether the defendant meets the residency requirements and is appropriate for transfer based on the Cal Rules of the Court Section 4.503(f). Any pertinent information discovered during the residence verification office/home visit should also be included in the Memorandum.
2. Within two weeks of the Transferring Superior Court's order to transfer jurisdiction of the case, Probation should receive the *filed Order for Transfer (CR-251)*, and *pertinent case documents (if not previously provided)* from the Transferring County Probation Department. If documents have not been received by the 10<sup>th</sup> calendar day, the assigned DPO shall place a call to the Transferring County Probation Department to determine that status of the *Order for Transfer and documents*.
3. Upon receipt of the *Order for Transfer*, and the assignment of a Santa Barbara Superior Court case number, the assigned DPO will prepare probation order(s) and submit them to the Court according to their requested procedures. Once the order has been signed by the client and the Judge, the DPO will complete the Initial Screening Tool, and Risk of Violence and Recidivism as appropriate, Pro 129, and prepare the file for transfer to supervision.

Pro 257-C

Pro 257-D

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**Jurisdictional Transfer Pursuant to Penal Code  
Section 1203.9(continued)**

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III. Exceptions

- A. Jurisdictional Transfer per §1203.9 PC shall not be done for clients whose sole reason for residing out of county is participation in a Sober Living Home/Residential Treatment Program and there is no plan of permanency residence.
- B. 1210.1 PC (Prop 36) Cases - these cases will be transferred pursuant to 1203.9(c) PC, or as outlined in the Memorandum of Understanding for expedited transfer with San Luis Obispo, Ventura, and Kern Counties.
- C. Client has less than one year remaining on his/her grant of probation/mandatory supervision, or is presently in violation of probation. Depending on the seriousness of the offense, i.e. sex offenders, high risk domestic violence offenders, serious drug sales, or violent offenders, the DPO may request the transfer be accepted by the receiving county if the client has at least six months remaining on their grant of supervision.

IV. Courtesy Supervision

SB431 eliminates Courtesy Supervision between counties. Probationers currently receiving courtesy supervision from another county should be reviewed for possible 1203.9 PC transfer. Staff should be aware that if the supervising county of a Santa Barbara County courtesy supervision case informs Probation that supervision will end unless 1203.9 PC process is completed, immediate action will be required to evaluate the appropriateness of a jurisdictional transfer and, if appropriate, begin the new 1203.9 PC procedure.

V. Permission to leave the county temporarily

- A. Occasionally, a client will request permission to leave the county for short periods of time (60 days maximum). The assigned DPO is authorized to grant such permission except in aggravated, high profile or notorious felony cases, those involving large financial balances, or in any case in which the DPO believes that the Court should be kept informed. In such cases, Court approval should be obtained prior to the client's departure.

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Such clients must be advised that should they leave United States jurisdiction without prior Court approval, they do so at their own peril and will be subject to revocation of probation/mandatory supervision proceedings with a warrant for their arrest requested.

- B. Temporary departure of a client from the County, but within the State, for the purposes of employment, visiting relatives, or for a vacation may be authorized by the assigned DPO, when appropriate.
- C. Temporary departure of a felon on probation or mandatory supervision from the State or from the United States, for any reason, must be approved by the Supervisor or supervisor designee and prior to the defendant's departure, the DPO must secure from the client signed waivers of extradition (dated and witnessed only).

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