

1203.9 PC - Best Practices

*Purpose: The statutory requirements governing the jurisdictional transfer of probation and mandatory supervision cases are minimal and clearly outlined in Penal Code Section 1203.9 and California Rule of Court 4.530. Beyond the requirements in the code and in an effort to comply with the legislature's intent that, "...all those transfers shall be completed expeditiously," the following best practices have been developed. The intent of these best practices is to provide guidance to all 58 counties to limit problems and complications and promote communication between jurisdictions in the event of any issues. It is important to remember these best practices are guidelines, and no jurisdictional transfer should be found inappropriate unless factors are met as outlined in the Penal Code and Rules of Court. **Sending county to resolve AB 1950 disposition before transfer. Consistent with statute, the Prop 63 investigation should be completed prior to initiating a 1203.9 transfer.***

MINIMUM REQUIREMENT(S) TO TRANSFER A CASE

- Filed Notice and Motion For Transfer (Form CR250)
- Filed Order for Transfer (Form CR251)
 - o Court Order, Probation or Mandatory Supervision reports and case plans

MINIMUM REQUIREMENT IF CASE INAPPROPRIATE FOR TRANSFER

- Filed Receiving Court Comment (Form CR252)

I. Prior To The Transfer Hearing

Along with the **Filed Notice and Motion for Transfer (CR-250)**, send the receiving county the following documents:

- Presentence Investigation Report (if available)
- Original Crime Report (if available)
- Orders For Supervision And Any Subsequent Modifications
- Program Completions
- Custody Credits
- Victim Information
- Criminal Protective Orders (CPO) if in effect
- Photo of Person
- Proof of Registration or Notice of Registration Requirement (290 PC, 457.1 PC, 186.30 PC)

II. After The Transfer Hearing

Send the receiving county the **Filed Order for Transfer (CR-251)** and any documents not sent originally

NOTE- If for any reason the case is not transferred or vacated, notify the 1203.9 PC contact person(s) from that county

III. Guidelines Regarding Specific Identified Issues

- A. **New Offenses/Violations Of Supervision**: A sending county should conduct a thorough review of person's criminal history prior to filing a Notice and Motion for Transfer. Counties should not transfer any persons pending new law violations with the exception of minor misdemeanor cases, including but not limited to, drunk in public cases, driving with a suspended license and any moving violations/infractions. If a person commits a technical violation(s) or new law violation(s) to include either felony or misdemeanor offense(s) in the receiving county during the transfer process, the sending county should violate the case prior to the hearing according to their department policy or take the matter off calendar and notify the receiving county.
- B. **Homeless Persons**: A physical apartment/house/normal living quarters are not required by Rules of Court. "Residency" is defined as the location the supervised person customarily lives.
- C. **Sober Living/Residential Treatment Programs/Adult Group Homes**: These persons are appropriate for transfer if the person is residing and receiving services in the receiving county and have a plan of permanent residency.
- D. **Delancey Street In San Francisco**: Any persons sentenced to Delancey Street are appropriate for transfer and must have a minimum of six months or more on supervision at the time of the hearing.
- E. **Address Verifications**: The inability of a receiving county to conduct an address verification does not preclude a transfer.
- F. **New Address within Receiving County**: Should the person move to a new address still located within the receiving county after the Filed Notice and Motion for Transfer has been mailed, the sending county should contact the receiving county to update the person's new address.
- G. **Move to Different County**: If the person moves to a different county other than the county listed in the Filed Notice and Motion for Transfer before the hearing, the sending county should petition their court to vacate the hearing, then inform the receiving county, and start the transfer process for the new receiving county.
- H. **Remaining Time on Probation**: Case should have at least six months remaining on supervision by transfer date. Exceptions may include offenses involving sex, dv, drug sales, weapons, gangs or any other offenses considered significant in the interest of public safety, which may be transferred no matter how much time remains.
- I. **Receiving Court Comment Form**: If the case is inappropriate for transfer based on factors outlined in the Rules of Court, the receiving court must sign a Receiving Court Comment Form (CR-252), generated by the receiving county's probation department. The probation department shall forward the original to the sending county's court and a copy to the sending county's probation department.