


SOLANO COUNTY CALIFORNIA PROBATION DEPARTMENT	POLICY NUMBER: 111	EFFECTIVE DATE: October 27, 2019
	SUPERSEDES: October 9, 2017	
APPROVED BY:  CHIEF PROBATION OFFICER	TITLE: ADULT SERVICES 1203.9 PC TRANSFER OF JURISDICTION	

1. **Policy** The purpose of this policy is to outline the process for addressing transfers of jurisdiction pursuant to California Penal Code section 1203.9.

- A. Incoming adult transfers of jurisdiction, pursuant to 1203.9 PC, shall be accepted. Exceptions to this rule include: cases with less than one year of supervision remaining unless the case involves a serious crime (such as Sex Offenses, Domestic Violence, Drug Sales, Weapons, Gangs or any other offenses considered significant in the interest of public safety); summary (non-formal) probation cases; there are no appropriate programs available for the supervised person in Solano County; the supervised person has not completed his/her commitment of custody time to the sentencing county. 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.

- B. Outgoing adult transfers of jurisdiction, pursuant to 1203.9 PC, shall be calendared for Court. Exceptions to this rule include: cases with less than one year of supervision remaining unless the case involves a serious crime (such as Sex Offenses, Domestic Violence, Drug Sales, Weapons, Gangs, any other offenses considered significant in the interest of public safety); there are no appropriate programs available for the supervised person in the county of residence; the supervised person has not completed his/her commitment of custody time to the sentencing county; or the victim will not be safe if transfer is granted. 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.

Note: 1203.9 PC transfer requests shall be completed for any clients living in residential treatment, Sober Living, or Adult Group Homes if the person is residing and receiving services in the receiving county and have a plan of permanent residency. Clients participating in the Delancey Street program must have a minimum of six months or more on supervision at the time of the hearing.

Pursuant to Proposition 47, the following Felonies (now classified as Misdemeanors), shall not be accepted from other counties or calendared for transfer under 1203.9 PC without ensuring relief under Proposition 47 has been addressed: **11350(a) H&S,**

11357(a) H&S, 11377(a) H&S, 459a PC, 473(a) PC, 476a (b) PC, 490.2 PC, 496(a) PC, and 666 PC.

New Offenses/Violations of Supervision: A thorough review of criminal history must be completed prior to filing a Notice and Motion for Transfer. If a technical violation or new law violation, to include either felony or misdemeanor offense(s), is pending during the transfer process, the violation should be addressed prior to the hearing or the matter removed from calendar pending resolution with a notice to the receiving county. If client has a new felony offense, sex offense, weapons, serious or violent offense during transfer process, then the case should be violated prior to transfer or addressed per Department policy. Exceptions must be reviewed with the Supervising Deputy Probation Officer (SDPO) or designee.

2. **Procedures**

I. **Incoming Jurisdictional Transfer**

- A. Incoming Cases: A CASE file will be set up on all incoming cases. Support services will assign the file to a Deputy Probation Officer (DPO) for completion of the 1203.9 Residence Verification. The case will remain assigned to the Residence Verification DPO until the jurisdictional transfer process is complete.

Upon receipt of the file, the DPO shall complete the following process:

- (1) Establish contact with client by phone or appointment notice. (At least two documented contact attempts should be made to verify the residence. If unsuccessful, DPO may contact sending county DPO to verify information.)
- (2) Complete the 1203.9 Residence Verification Questionnaire (Attachment A) during initial contact to determine if the person resides permanently (**meaning with the stated intention to remain for the duration of probation**) in Solano County.
- (3) Schedule a separate home visit with client.
- (4) Document all Residence Verification information and appointment time in CASE.
- (5) Residence verifications should be attempted at the address of record if the person cannot be successfully reached by phone or mail.

Note: A CASE Activity reminder for completion of the Residence Verification will be sent to assigned DPO thirty (30) days before court date.

B. Prior to Going to the Home

- (1) Input address in CASE to determine if other clients reside in the home.
- (2) Run and review CLETS prior to conducting the Residence Verification (if there is a CLETS hit, consult SDPO before going to home).
- (3) Contact local law enforcement regarding any law enforcement contacts at the address (optional).
- (4) Document all required information in CASE.

C. Conduct Home Visit

- (1) Follow field safety procedures. (Refer to the Field and Office Safety Policy, P-600-.
- (2) Work with a partner.
- (3) Inform Sheriff's Dispatch and SDPO/Manager (or designee) of client's name, address and time of Residence Verification.
- (4) Once at the residence, ask client to show where they sleep within the home.

Note: We are not in the home to complete a field search; we are only there to verify that the client resides in the home.

- (5) Have client provide required Residence Verification documents to verify permanency of residence.

D. Solano County Residence Verification Documentation: All documents shall include an address matching the address noted on the 1203.9 Notice of Jurisdictional Transfer. Acceptable documents include, but are not limited to, the following:

- (1) A California state driver's license or identification card that includes a Solano County address
- (2) Voter registration documents
- (3) Filing a homeowner's property tax exemption
- (4) Copy of rental agreement or proof of home ownership
- (5) Verification of residence from the person whose home the client will reside (third party verification form)

- (6) Paycheck stub or proof/verification of employment
- (7) Credit card bill
- (8) Utility bills
- (9) Current insurance policies/documents
- (10) Vehicle registration
- (11) Any official document verifying client's name and address
- (12) Drug, Arson and/or Gang registration card
- (13) Letter from owner/lease holder (with proof of their residence)

E. Upon Completion of Residence Verification

- (1) Input results of contact in CASE and indicate what form of proof was provided.

F. Not Acceptable Cases

- (1) When recommending denial of transfer, submit a Judicial Comment Form CR252 (via Adult Court Clerk processing staff) to **Solano County Supervising Criminal Judge**, no later than twenty (20) days prior to the Court hearing. Indicating the following:
 - a. **TRANSFER IS DENIED** (bolded on form).
 - b. Reason case is unacceptable for jurisdictional transfer (including all documented attempts to verify the address, i.e. phone, letter, visit....).
 - c. Request sending Court to Fax Minute Order of Transfer Hearing to Solano County Criminal Division: **707-648-8171** (Save document in CASE).
 - d. DPO shall include their name, title, and phone number on the CR252 form to identify the investigating officer. **(Do not sign as the judicial officer).**

NOTE: The inability of a receiving county to conduct an address verification does not preclude a transfer

- (2) Notify the sending Probation Department about the denial recommendation.
- (3) Complete 1203.9 Residence Verification Request Form (RVRF) (Attachment B) attached to the file and indicate the "Verification Denied."

- (4) Return the file to Clerical Adult Court Clerk for final processing.

Note: The file shall be returned to the filing room with the (RVRF form); however, the case will remain assigned to the Residence Verification DPO and Residence Verification caseload (380; 1380) for all correspondence until the process is complete. If more information is requested by the Court, the assigned Residence Verification DPO must provide the information requested using the CR252 Judicial Comment form in CASE.

G. Acceptable Cases

- (1) If the DPO is recommending the transfer be accepted, the client shall be informed to contact the Residence Verification DPO within 72 hours of the 1203.9 PC transfer hearing date to advise of the hearing outcome.
- (2) Complete the 1203.9 Residence Verification Request Form (RVRF) attached to the file and indicate the "Verification Approved."
- (3) Return the file to Clerical Adult Court Clerk for final processing.

Note: The file shall be returned to the filing room with the (RVRF form); however, the case will remain assigned to the Residence Verification DPO and Residence Verification caseload (380; 1380) for all correspondence until the process is complete. If more information is requested by the Court, the assigned Residence Verification DPO must provide the information requested using the CR252 Judicial Comment form in CASE.

H. Incomplete Incoming Case Follow Up: Twenty (20) days following the court hearing, the assigned DPO will receive a CASE activity reminder if the transfer is still pending or has not been formally accepted and issued a case number by Solano County Court. The DPO shall complete the following steps:

- (1) If the transfer packet has not been received by the Department, contact the sending county Probation Department to determine the disposition of the Transfer Hearing.
 - a. If the transfer was approved at the hearing, request sending county Probation Department to forward their transfer packet and a copy of the criminal minute order or the 1203.9 Transfer Granted order signed by the Judge.
 - b. If the transfer was denied or rescinded, request written confirmation; a copy of the criminal minute order or a copy of the 1203.9 Transfer Denial signed by the Judge
 - c. If the Transfer Hearing has been calendared for a different date, request a copy of the new 1203.9 Notice of Hearing or Court order which indicates the new hearing date.

- (2) Forward documentation to Administrative Services. Administrative Services will update the status of the 1203.9 Hearing Disposition activity in CASE.
- (3) If the transfer was granted, Administrative Services will contact the Solano County Court to confirm their receipt of the sending county's court file and to obtain the new Solano County court case number assigned to the transfer-in case.

I. Official Transfer Acceptance Process

- (1) Within two weeks of the 1203.9 PC transfer hearing, Administrative Services will receive the official transfer packet, minute order and/or abstract of judgment from the sending Probation Department.
- (2) Upon receipt of a Solano County Case number from the Solano County Court, the case will be assigned to a DPO for screening unless the case is already assigned to a supervision officer.

II. Outgoing Transfer of Jurisdiction

- A. Outgoing Cases: Whenever a person is released on probation or mandatory supervision and resides out of county, the DPO shall initiate the transfer process, within thirty (30) days of determining eligibility, to the receiving county in which the person resides permanently (**meaning with the stated intention to remain for the duration of probation**). The assigned DPO shall verify permanency of residence (refer to examples of Residence Verification documents previously listed).
- B. Transferring DPO Shall Consider the Following:
- (1) Client must have already served any jail sentence imposed before transfer-out Court hearing is set (sentences include Sheriff's Alternative Sentencing Program).
 - (2) The availability of appropriate programs in the receiving county.
 - (3) The DPO shall establish victim restitution prior to setting a transfer hearing. A transfer may be initiated without establishing victim restitution only if the DPO is unable to contact the victim. At minimum, an attempt should be made to contact the victim by mail (use Victim Restitution letter) and telephone at least thirty (30) days in advance of noticing a motion of transfer.
 - (4) Victim safety issues which may arise as a result of the transfer.
 - (5) DPO must inform client of \$300 outgoing transfer fee.

C. If not appropriate for outgoing transfer:

- (1) In cases where the client makes a request to have probation transferred, the assigned DPO must make a decision, within thirty (30) days of the **client's request**, to calendar the hearing or not. Failure by the DPO to notify the client of their decision is deemed a refusal to make the motion.
- (2) If the DPO denies the client's request, the DPO must send a letter to the client stating the reason for the denial. The client or a third party may then file a motion as outlined in Rule 4.530(d)(2)(3).

D. If appropriate for outgoing transfer:

- (1) DPO shall calendar the case, at minimum, seventy (70) days prior to the proposed date for a 1203.9 hearing.
- (2) No later than seventy (70) days prior to the date set for hearing, use the Notice of 1203.9 Court Hearing Cover Letter (Attachment C) **and** the 1203.9 Notice of Hearing form (CR250) in CASE to provide written notice of the date, time and place set for hearing to:
 - a. Presiding Judge (or designee) of the receiving court
 - b. Probation Officer (or designee) of the receiving county
 - c. Prosecutor of the transferring county
 - d. Client
 - e. Client's last counsel of record (if any)
 - f. Victim (if any) (**client's address should be redacted**)
- (3) Prior to the Transfer Hearing the Deputy Probation Officer will submit the 1203.9 PC Transfer Cover Sheet (Attachment D) and the filed Notice and Motion for Transfer (CR-250) to the clerical Adult Court Clerk, who will send the forms and the below documents to the receiving county:
 - Presentence Investigation Report (if available)
 - Original Crime Report (if available)
 - Order for supervision and any subsequent modification
 - Program Completions
 - Custody Credits
 - Victim Information
 - Criminal Protective Orders (CPO) if in effect
 - Photo of Person
 - Proof of Registration or Notice of Registration Requirements (11590 H&S, 290 PC, 457.1 PC, 186.30 PC)

Note: If a previously scheduled outgoing transfer request is withdrawn, the transferring DPO must notify the receiving Probation Department, so they can update their records.

- (4) Submit 1203.9 Notice of Hearing form (CR250), Order for Transfer (CR251) and Proof of Service form to Court seventy (70) days prior to the court hearing. Report shall include information regarding:

- a. Permanency of residence
- b. Availability of appropriate programs
- c. Restitution orders
- d. Victim issues

Note: 1203.9 Hearing Notice forms must include a date that is seventy (70) days in advance of the hearing and must be hand-delivered or postmarked in the same manner.

- (5) If the transferring Court continues the transfer out hearing date for any reason, the transferring DPO must forward a copy of the minute order to the receiving Probation Department.

E. Outgoing Case Follow Up

- (1) Within **two working days** of receiving the approved Solano County transfer order, DPO shall determine if an account is set up in CUBS. If so, complete the 1203.9 PC Transfer – Collection Information (Attachment E) and email a copy to: ProbAcctg@SolanoCounty.com.

Note: If the account has not been set up in CUBS, DPO shall also email a copy of the Collections Information Sheet to set up the account.

- (2) If not sent previously, no later than **two weeks**, (postmarked) of receiving transfer order, assigned DPO shall send 1203.9 PC Post Transfer Cover Sheet (Attachment F) and the following documents to the Probation Department of the receiving county:
- a. Any court orders (including the Order For Transfer – Form (CR251) or Court Minute Order)
 - b. Probation or Mandatory Supervision reports
 - c. Case Plans
 - d. Custody Credits
 - e. All records of payments (i.e. 1203.9 PC Transfer – Collection Information form is acceptable)
 - f. Copies of Probation assessments and relevant data

Note: Court has two weeks to send legal file to receiving county Court.

- (3) The assigned DPO must notify the client of the transfer order and order him/her to report to the receiving county no later than 30 days after the

transfer hearing.

- (4) DPO will continue to supervise the client until the Order For Transfer Form (CR251) / Court Minute Order is received from the Solano Court.
 - a. Home visits will not be required for out of county addresses unless authorization has been provided by the Division Manager or designee.
 - b. Out of county clients who reside outside a 60 mile radius and/or cannot report due to transportation difficulties shall have their contact requirements modified on a case by case basis, as approved by the Supervising Deputy Probation Officer.
 - c. If a client cannot report in person, other methods to maintain contact with the client shall be explored (telephone or postal mail).
 - (5) After assigned DPO sends the transfer packet to the receiving county, the file can be closed as jurisdiction has been officially transferred.
3. **Exceptions** Any exceptions to the provisions set forth in this policy shall require prior written approval from the Chief Probation Officer.