



Judicial Council of California

ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS

770 "L" Street, Suite 700 • Sacramento, California 95814-3393

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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.

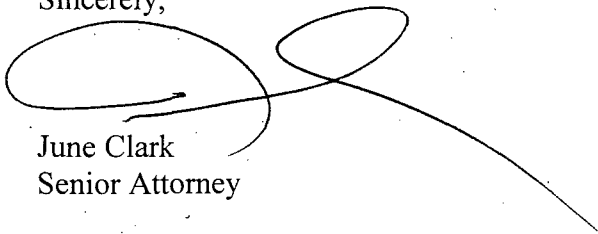
The council and CPOC ultimately agreed that permanent residency should be the primary, but not exclusive, determinant of where probation and legal jurisdiction should lie. Other factors are also important, such as the availability of appropriate programs in the receiving county. Therefore, the bill would 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,

A handwritten signature in black ink, consisting of a large, stylized 'J' and 'C' that are connected, with a long horizontal stroke extending to the right.

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 Prosio, Chief Deputy, Legislative Affairs Secretary, Office of the Governor
Ms. Kirsten Kolpitzke, Deputy Director of Legislation, Governor's Office of Planning and Research



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CURTIS L. CHILD
Director, Office of Governmental Affairs

June 5, 2009

Hon. John J. Benoit
Member of the Senate
State Capitol, Room 4066
Sacramento, California 95814

Subject: SB 431 (Benoit), as amended June 4, 2009 – Support
Hearing: Assembly Public Safety Committee – June 16, 2009

Dear Senator Benoit:

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.

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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.

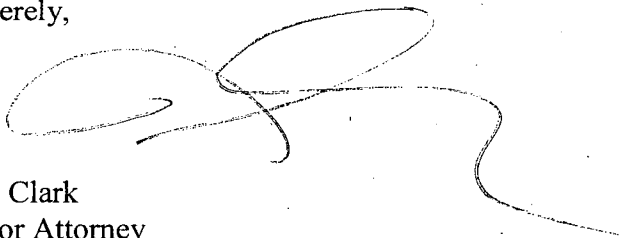
The council and CPOC ultimately agreed that permanent residency should be the primary, but not exclusive, determinant of where probation and legal jurisdiction should lie. Other factors are also important, such as the availability of appropriate programs in the receiving county. Therefore, the bill would 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 supports SB 431.

Sincerely,

A handwritten signature in dark ink, appearing to be 'June Clark', with a long, sweeping horizontal line extending to the right.

June Clark
Senior Attorney

JC/yt

cc: Ms. Karen Pank, Executive Director, Chief Probation Officers of California
Mr. Michael Proso, Legislative Affairs Secretary, Office of the Governor
Ms. Kirsten Kolpitke, Deputy Director of Legislation, Governor's Office of Planning and Research



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Director, Office of Governmental Affairs

June 5, 2009

Hon. Jose Solorio, Chair
Assembly Public Safety Committee
State Capitol, Room 2196
Sacramento, California 95814

Subject: SB 431 (Benoit), as amended June 4, 2009 - Support
Hearing: Assembly Public Safety Committee – June 16, 2009

Dear Assembly Member Solorio:

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.

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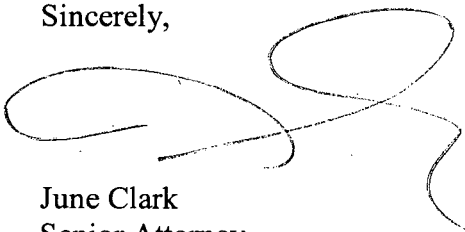
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For these reasons, the Judicial Council supports SB 431.

Sincerely,



June Clark
Senior Attorney

JC/yt

cc: Members, Assembly Public Safety Committee

Ms. Karen Pank, Executive Director, Chief Probation Officers of California

Mr. Gabriel Caswell, Counsel, Assembly Public Safety Committee

Mr. Michael Prosio, Legislative Affairs Secretary, Office of the Governor

Ms. Kirsten Kolpitke, Deputy Director of Legislation, Governor's Office of Planning and Research

Mr. Gary Olson, Consultant, Assembly Republican Office of Policy