

Senate Bill No. 1371

CHAPTER 49

An act to amend Section 1205 of the Penal Code, relating to victim restitution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 28, 2012. Filed with
Secretary of State June 28, 2012.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1371, Anderson. Victim restitution: fines: default.

Existing law requires a court to order a defendant to make restitution in every case in which a victim has suffered economic loss as a result of the defendant's conduct. Existing law requires the restitution order to be based on the amount of loss claimed by the victim or victims, and to be of a dollar amount that is sufficient to fully reimburse the victim or victims for every determined economic loss incurred as a result of the defendant's criminal conduct, as specified. Under existing law, a restitution order imposed pursuant to these provisions is enforceable as if the order were a civil judgment.

Existing law specifies that a judgment that a defendant pay a fine may also direct that he or she be imprisoned until the fine is satisfied, and that the imprisonment begin at and continue after the expiration of any other prison sentence. Existing law makes those provisions applicable to restitution fines and restitution orders only if the defendant has defaulted on the payment of other fines.

This bill would instead make those provisions regarding imprisonment until a fine is satisfied inapplicable to restitution fines and restitution orders.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 1205 of the Penal Code is amended to read:

1205. (a) A judgment that the defendant pay a fine, with or without other punishment, may also direct that he or she be imprisoned until the fine is satisfied and may further direct that the imprisonment begin at and continue after the expiration of any imprisonment imposed as a part of the punishment or of any other imprisonment to which the defendant may have been sentenced. The judgment shall specify the term of imprisonment for nonpayment of the fine, which shall not be more than one day for each thirty dollars (\$30) of the fine, nor exceed the term for which the defendant may be sentenced to imprisonment for the offense of which he or she has been

convicted. A defendant held in custody for nonpayment of a fine shall be entitled to credit on the fine for each day he or she is held in custody, at the rate specified in the judgment. When the defendant has been convicted of a misdemeanor, a judgment that the defendant pay a fine may also direct that he or she pay the fine within a limited time or in installments on specified dates, and that in default of payment as stipulated he or she be imprisoned in the discretion of the court either until the defaulted installment is satisfied or until the fine is satisfied in full; but unless the direction is given in the judgment, the fine shall be payable.

(b) Except as otherwise provided in case of fines imposed, as a condition of probation, the defendant shall pay the fine to the clerk of the court, or to the judge if there is no clerk, unless the defendant is taken into custody for nonpayment of the fine, in which event payments made while he or she is in custody shall be made to the officer who holds the defendant in custody, and all amounts paid shall be paid over by the officer to the court that rendered the judgment. The clerk shall report to the court every default in payment of a fine or any part of that fine, or if there is no clerk, the court shall take notice of the default. If time has been given for payment of a fine or it has been made payable in installments, the court shall, upon any default in payment, immediately order the arrest of the defendant and order him or her to show cause why he or she should not be imprisoned until the fine or installment is satisfied in full. If the fine or installment is payable forthwith and it is not paid, the court shall, without further proceedings, immediately commit the defendant to the custody of the proper officer to be held in custody until the fine or installment is satisfied in full.

(c) This section applies to any violation of any of the codes or statutes of this state punishable by a fine or by a fine and imprisonment.

(d) Nothing in this section shall be construed to prohibit the clerk of the court, or the judge if there is no clerk, from turning these accounts over to another county department or a collecting agency for processing and collection.

(e) The defendant shall pay to the clerk of the court or the collecting agency a fee for the processing of installment accounts. This fee shall equal the administrative and clerical costs, as determined by the board of supervisors, or by the court, depending on which entity administers the account. The defendant shall pay to the clerk of the court or the collecting agency the fee established for the processing of the accounts receivable that are not to be paid in installments. The fee shall equal the administrative and clerical costs, as determined by the board of supervisors, or by the court, depending on which entity administers the account, except that the fee shall not exceed thirty dollars (\$30).

(f) This section shall not apply to restitution fines and restitution orders.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide fair compensation to victims of crime and to ensure certainty in sentencing at the earliest possible time, it is necessary for this measure to take effect immediately.

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