

Assembly Bill No. 805

CHAPTER 17

An act to amend Section 1275 of the Penal Code, relating to bail.

[Approved by Governor June 24, 2013. Filed with
Secretary of State June 24, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

AB 805, Jones-Sawyer. Bail.

Existing law provides that in setting, reducing, or denying bail, a judge or magistrate is required to consider the protection of the public, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at trial or at a hearing of the case. Existing law also provides that public safety is the primary consideration in setting, reducing, or denying bail. Existing law authorizes a court to employ an investigative staff for the purpose of recommending whether a defendant should be released on his or her own recognizance.

This bill would provide that in setting, reducing, or denying bail, a judge or magistrate may consider the report prepared by that staff.

This bill would also make technical, nonsubstantive changes to these provisions.

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

SECTION 1. Section 1275 of the Penal Code is amended to read:

1275. (a) (1) In setting, reducing, or denying bail, a judge or magistrate shall take into consideration the protection of the public, the seriousness of the offense charged, the previous criminal record of the defendant, and the probability of his or her appearing at trial or hearing of the case. The public safety shall be the primary consideration. In setting bail, a judge or magistrate may consider factors such as the information included in a report prepared in accordance with Section 1318.1.

(2) In considering the seriousness of the offense charged, a judge or magistrate shall include consideration of the alleged injury to the victim, and alleged threats to the victim or a witness to the crime charged, the alleged use of a firearm or other deadly weapon in the commission of the crime charged, and the alleged use or possession of controlled substances by the defendant.

(b) In considering offenses wherein a violation of Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code is alleged, a judge or magistrate shall consider the following: (1) the alleged amounts of controlled substances involved in the commission of the offense, and (2)

whether the defendant is currently released on bail for an alleged violation of Chapter 6 (commencing with Section 11350) of Division 10 of the Health and Safety Code.

(c) Before a court reduces bail to below the amount established by the bail schedule approved for the county, in accordance with subdivisions (b) and (c) of Section 1269b, for a person charged with a serious felony, as defined in subdivision (c) of Section 1192.7, or a violent felony, as defined in subdivision (c) of Section 667.5, the court shall make a finding of unusual circumstances and shall set forth those facts on the record. For purposes of this subdivision, “unusual circumstances” does not include the fact that the defendant has made all prior court appearances or has not committed any new offenses.