

AMENDED IN SENATE APRIL 2, 2014

SENATE BILL

No. 1110

Introduced by Senator Jackson

February 19, 2014

An act to ~~add Section 977.5 to~~ *amend Section 858 of the Penal Code,* relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 1110, as amended, Jackson. Arraignment: military and veteran status: forms.

Existing law requires, when a defendant is brought before a magistrate upon arrest, on a charge of having committed a public offense, the magistrate to immediately inform the defendant of the charge against him or her and the defendant's right to counsel at every stage of the proceedings. Under existing law, if it appears that the defendant may be a minor, the magistrate is required to ascertain if that is the case and, if it is and the defendant meets specified requirements, to immediately notify the parent or guardian of the minor of the arrest or to appoint counsel to the minor.

This bill would require the magistrate to enquire as to the active duty or veteran status of the defendant and require specified actions if the defendant acknowledges military service, including filing Judicial Counsel Form MIL-100 and transmitting the form to the county veterans services officer for confirmation of military service. The bill would provide that a defendant may decline to provide military service information without penalty. The bill would also make technical changes.

~~Existing law governs criminal proceedings, including arraignment of the defendant. Existing law also provides alternative sentencing~~

~~procedures, under specified circumstances, if a court makes a determination prior to sentencing that a defendant who has been convicted of a criminal offense was, or currently is, a member of the United States military and may be suffering from sexual trauma, traumatic brain injury, post-traumatic stress disorder, substance abuse, or mental health problems as a result of that service, as specified.~~

~~Existing law authorizes the board of supervisors of each county to appoint a county veterans service officer to perform veteran-related services, as specified.~~

~~This bill would require a court to order that a form identifying the military and veteran status of the defendant be completed whenever a defendant is arraigned. The bill would require that the form be a part of the court file and acknowledged on the record by the court and the defense counsel, if any. The bill would authorize the court to provide a copy of the form free of charge to the county veterans service officer and to the United States Department of Veterans Affairs for verification of the information provided on the form, if necessary. The bill would require the Judicial Council to develop and adopt the form.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 858 of the Penal Code is amended to
2 read:

3 858. (a) ~~When the defendant is brought before the magistrate~~
4 ~~upon an arrest, either with or without warrant, first appears for~~
5 ~~arraignment~~ on a charge of having committed a public offense,
6 ~~the magistrate must shall~~ immediately inform ~~him~~ *the defendant*
7 of the charge against him *or her*, and of his *or her* right to the aid
8 of counsel in every stage of the proceedings. ~~If~~

9 (b) *If* it appears that the defendant may be a minor, the
10 magistrate shall ascertain whether ~~such~~ *that* is the case, and if the
11 magistrate concludes that it is probable that the defendant is a
12 minor, and unless the defendant is a member of the armed forces
13 of the United States and the offense charged is a misdemeanor, he
14 *or she* shall immediately either notify the parent or guardian of
15 ~~the minor, by telephone, telegram, or messenger, minor~~ of the
16 ~~arrest, arrest~~ or appoint counsel to represent the minor.

1 (c) *The magistrate shall enquire as to the defendant's active*
2 *duty or veteran status in the United States military. The defendant*
3 *may decline to provide that information without penalty. If the*
4 *defendant acknowledges military service, Judicial Counsel Form*
5 *MIL-100 shall be filed by the defendant and served on the*
6 *prosecuting attorney and defense counsel may be used to determine*
7 *eligibility for services pursuant to Section 1170.9. A copy of the*
8 *form shall be transmitted to the county veterans services officer*
9 *for confirmation of military service.*

10 SECTION 1. ~~Section 977.5 is added to the Penal Code, to read:~~

11 ~~977.5. (a) Whenever a defendant is arraigned, the court shall~~
12 ~~order that a form identifying the military and veteran status of the~~
13 ~~defendant be completed. The completed form shall be a part of the~~
14 ~~court file and shall be acknowledged on the record by the court~~
15 ~~and the defense counsel, if any. The court may provide a copy of~~
16 ~~the form free of charge to the county veterans service officer and~~
17 ~~to the United States Department of Veterans Affairs for verification~~
18 ~~of the information provided on the form, if necessary.~~

19 ~~(b) The Judicial Council shall develop and adopt the form~~
20 ~~described in subdivision (a) for purposes of this section.~~