

AMENDED IN SENATE APRIL 22, 2014

AMENDED IN SENATE APRIL 2, 2014

SENATE BILL

No. 1110

Introduced by Senator Jackson

February 19, 2014

An act 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, *if the defendant is represented by counsel*, to ~~enquire inquire~~ 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 Council 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 require, if the defendant is not represented by counsel, that the magistrate not make an inquiry into the defendant's*

current or past military status, and that the court advise the defendant that certain current or former members of the United States military who meet certain qualifications are eligible for specific forms of restorative relief. The bill would also make technical changes.

Vote: majority. Appropriation: no. Fiscal committee: yes-no.
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 first appears for arraignment on
4 a charge of having committed a public offense, the magistrate shall
5 immediately inform the defendant of the charge against him or
6 her, and of his or her right to the aid of counsel in every stage of
7 the proceedings.

8 (b) If it appears that the defendant may be a minor, the
9 magistrate shall ascertain whether that is the case, and if the
10 magistrate concludes that it is probable that the defendant is a
11 minor, and unless the defendant is a member of the Armed Forces
12 of the United States and the offense charged is a misdemeanor, he
13 or she shall immediately either notify the parent or guardian of the
14 minor of the arrest or appoint counsel to represent the minor.

15 (c) *If the defendant is represented by counsel, the magistrate*
16 ~~shall enquire~~ inquire as to the defendant's active duty or veteran
17 status in the United States military. The defendant may decline to
18 provide that information without penalty. If the defendant
19 acknowledges military service, Judicial Counsel Council Form
20 MIL-100 shall be filed by the defendant and served on the
21 prosecuting attorney and defense counsel and may be used to
22 determine eligibility for services pursuant to Section 1170.9. A
23 copy of the form shall be transmitted to the county veterans
24 services officer for confirmation of military service.

25 (d) *If the defendant appears without counsel, the magistrate*
26 *shall not make an inquiry into the defendant's current or past*
27 *military status. The court shall advise the defendant that certain*
28 *current or former members of the United States military who meet*
29 *certain qualifications are eligible for specific forms of restorative*
30 *relief under the Penal Code.*

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