

AMENDED IN ASSEMBLY JUNE 16, 2014

AMENDED IN SENATE APRIL 22, 2014

AMENDED IN SENATE APRIL 2, 2014

**SENATE BILL**

**No. 1110**

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**Introduced by Senator Jackson**

February 19, 2014

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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 inquire as to the active duty or veteran status of the defendant and require specified actions if the defendant acknowledges military service, including filing *the* Judicial Council ~~Form ML-100 form for notification of military status~~ 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: 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 inquire as to the defendant’s active duty or veteran status in  
17 the United States military. The defendant may decline to provide  
18 that information without penalty. If the defendant acknowledges  
19 military service, ~~the Judicial Council Form MH-100~~ *form for*  
20 *notification of military status* shall be filed by the defendant and  
21 served on the prosecuting attorney and defense counsel and may  
22 be used to determine eligibility for services pursuant to Section  
23 1170.9. A copy of the form shall be transmitted to the county  
24 veterans 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

- 1 certain qualifications are eligible for specific forms of restorative
- 2 relief under the Penal Code.

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