

AMENDED IN ASSEMBLY JULY 3, 2014
AMENDED IN ASSEMBLY JUNE 16, 2014
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 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 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:

This bill would require the Judicial Council to revise its military service form to include information explaining the rights of individuals who have active duty or veteran status, as defined, and to include a space for the local court to include the contact information for the county veterans service office. The bill would require the court to inform the defendant that there are certain provisions of law specifically designed for individuals who have active duty or veteran status and who have been charged with a crime. The bill would require the court to inform the defendant that if the defendant is on active duty in the United States military, or is a veteran of the United States military, the defendant may request a copy of the Judicial Council military form that explains those rights and may file that form with the court. The bill would require the court to advise the defendant that the defendant may, without penalty, decline to provide that information to the court. The bill would require a defendant who acknowledges active duty or veteran status and submits the form to the court to file the form with the court and serve the form on the prosecuting attorney and defense counsel. The bill would require the court to transmit a copy of the form to the county veterans service officer for confirmation of the defendant's military service, and to transmit a copy of the form to the Department of Veterans Affairs.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ 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 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

1 her, and of his or her right to the aid of counsel in every stage of
2 the proceedings.

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

10 ~~(e) If the defendant is represented by counsel, the magistrate
11 shall inquire as to the defendant's active duty or veteran status in
12 the United States military. The defendant may decline to provide
13 that information without penalty. If the defendant acknowledges
14 military service, the Judicial Council form for notification of
15 military status shall be filed by the defendant and served on the
16 prosecuting attorney and defense counsel and may be used to
17 determine eligibility for services pursuant to Section 1170.9. A
18 copy of the form shall be transmitted to the county veterans
19 services officer for confirmation of military service.~~

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

26 *(c) For the purposes of this section, the Judicial Council shall
27 revise its military service form to include information explaining
28 the rights under Section 1170.9 and related statutes of individuals
29 who have active duty or veteran status and shall include a space
30 for the local court to provide the contact information for the county
31 veterans service office. For purposes of this section, "active duty
32 or veteran status" includes active military duty service, reserve
33 duty status, national guard service, and veteran status.*

34 *(d) The court shall inform the defendant that there are certain
35 provisions of law specifically designed for individuals who have
36 active duty or veteran status and who have been charged with a
37 crime. The court shall inform the defendant that if the defendant
38 is on active duty in the United States military, or is a veteran of
39 the United States military, the defendant may request a copy of
40 the Judicial Council military form that explains those rights and*

1 *may file that form with the court so that the defendant's active*
2 *duty or veteran status is on file with the court. The court shall*
3 *advise the defendant that the defendant should consult with counsel*
4 *prior to submitting the form and that the defendant may, without*
5 *penalty, decline to provide this information to the court.*

6 *(e) If the defendant acknowledges active duty or veteran status*
7 *and submits the Judicial Council military service form to the court,*
8 *the defendant shall file the form with the court and serve the form*
9 *on the prosecuting attorney and defense counsel. The form may*
10 *be used to assist in determining eligibility for services pursuant*
11 *to Section 1170.9. The court shall transmit a copy of the form to*
12 *the county veterans service officer for confirmation of the*
13 *defendant's military service. The court shall also transmit a copy*
14 *of the form to the Department of Veterans Affairs.*