

Senate Bill No. 1110

Passed the Senate August 21, 2014

Secretary of the Senate

Passed the Assembly August 14, 2014

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2014, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 858 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

SB 1110, 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 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.

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

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

858. (a) When the defendant first appears for arraignment on a charge of having committed a public offense, the magistrate shall immediately inform the defendant of the charge against him or her, and of his or her right to the aid of counsel in every stage of the proceedings.

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

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

(d) The court shall 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 court shall 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 so that the defendant’s active duty or veteran status is on file with the court. The court shall advise the defendant that the defendant should consult with counsel prior to submitting the form and that the defendant may, without penalty, decline to provide this information to the court.

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

Approved _____, 2014

Governor