

Introduced by Senator Block

February 20, 2014

An act to amend Section 1385 of the Penal Code, relating to dismissal.

LEGISLATIVE COUNSEL’S DIGEST

SB 1222, as introduced, Block. Dismissal: criminal action.

Existing law authorizes the judge or magistrate, either of his or her own motion or upon the application of the prosecuting attorney, and in furtherance of justice, to order a criminal action to be dismissed. The reasons for the dismissal are required to be set forth in an order entered upon the minutes.

This bill would give the judge or magistrate the option of either stating the reasons for the dismissal on the record or setting forth the reasons for the dismissal in an order entered upon the minutes. The bill would also make technical, nonsubstantive changes to these provisions.

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 1385 of the Penal Code is amended to
- 2 read:
- 3 1385. (a) The judge or magistrate may, either of his or her
- 4 own motion or upon the application of the prosecuting attorney,
- 5 and in furtherance of justice, order an action to be dismissed. The
- 6 reasons for the dismissal ~~must be~~ *shall be stated on the record or*
- 7 *set forth in an order entered upon the minutes. No* A dismissal shall
- 8 *not* be made for any cause ~~which~~ *that* would be ground of demurrer
- 9 to the accusatory pleading.

1 (b) This section does not authorize a judge to strike any prior
2 conviction of a serious felony for purposes of enhancement of a
3 sentence under Section 667.

4 (c) (1) If the court has the authority pursuant to subdivision (a)
5 to strike or dismiss an enhancement, the court may instead strike
6 the additional punishment for that enhancement in the furtherance
7 of justice in compliance with subdivision (a).

8 (2) This subdivision does not authorize the court to strike the
9 additional punishment for any enhancement that cannot be stricken
10 or dismissed pursuant to subdivision (a).