

Senate Bill No. 1222

Passed the Senate May 29, 2014

Secretary of the Senate

Passed the Assembly July 3, 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 1385 of the Penal Code, relating to dismissal.

LEGISLATIVE COUNSEL'S DIGEST

SB 1222, 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. Existing law requires the reasons for the dismissal to be set forth in an order entered upon the minutes.

This bill would require the judge or magistrate to state the reasons for the dismissal orally on the record. The bill would also require the court to set forth the reasons for the dismissal in an order entered upon the minutes if requested by either party or in any case in which the proceedings are not being recorded electronically or reported by a court reporter. The bill would also make technical, nonsubstantive changes to these provisions.

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

SECTION 1. Section 1385 of the Penal Code is amended to read:

1385. (a) The judge or magistrate may, either of his or her own motion or upon the application of the prosecuting attorney, and in furtherance of justice, order an action to be dismissed. The reasons for the dismissal shall be stated orally on the record. The court shall also set forth the reasons in an order entered upon the minutes if requested by either party or in any case in which the proceedings are not being recorded electronically or reported by a court reporter. A dismissal shall not be made for any cause that would be ground of demurrer to the accusatory pleading.

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

(c) (1) If the court has the authority pursuant to subdivision (a) to strike or dismiss an enhancement, the court may instead strike

the additional punishment for that enhancement in the furtherance of justice in compliance with subdivision (a).

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

Approved _____, 2014

Governor