

AMENDED IN SENATE MAY 18, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 696

Introduced by Assembly Member Jones-Sawyer

February 25, 2015

An act to amend Section 991 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 696, as amended, Jones-Sawyer. Defendants: arraignment.

Existing law ~~requires the magistrate~~, *requires*, when the defendant is in custody at the time he or she appears before the magistrate for arraignment and the public offense is a misdemeanor to which the defendant has pleaded not guilty, *the magistrate, on motion of counsel for the defendant or the defendant*, to determine whether there is probable cause to believe that a public offense has been committed and that the defendant is guilty of that offense. Existing law requires the determination of probable cause to be made immediately, unless the court grants a continuance not to exceed 3 court days, for good cause.

This bill would ~~require the magistrate~~, *require*, when the defendant is not in custody at the time he or she appears *before the magistrate* for arraignment and the public offense is a misdemeanor to which the defendant has pleaded not guilty, *the magistrate, on motion of counsel for the defendant or the defendant*, to determine whether there is probable cause to believe that a public offense has been committed and that the defendant is guilty of that ~~offense, unless the counsel for the defendant or the defendant waives that determination~~. *offense*. The bill would require that determination to be made 30 days before the date calendared for trial at the arraignment unless a later date is requested

by the defense in order to allow the prosecution to comply with specified disclosure requirements.

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 991 of the Penal Code is amended to
 2 read:
- 3 991. (a) When the defendant is in custody at the time he or
 4 she appears before the magistrate for arraignment and the public
 5 offense is a misdemeanor to which the defendant has pleaded not
 6 guilty, the magistrate, on motion of counsel for the defendant or
 7 the defendant, shall determine whether there is probable cause to
 8 believe that a public offense has been committed and that the
 9 defendant is guilty thereof.
- 10 (b) The determination of probable cause shall be made
 11 immediately unless the court grants a continuance for good cause
 12 not to exceed three court days.
- 13 (c) When the defendant is not in custody at the time he or she
 14 appears *before the magistrate* for arraignment and the public
 15 offense is a misdemeanor to which the defendant has pleaded not
 16 guilty, ~~the magistrate~~ *magistrate, on motion of counsel for the*
 17 *defendant or the defendant*, shall determine whether there is
 18 probable cause to believe that a public offense has been committed
 19 and that the defendant is guilty thereof, ~~unless the counsel for the~~
 20 ~~defendant or the defendant waives that determination.~~ *thereof.* The
 21 determination shall be made 30 days before the date calendared
 22 for trial at the arraignment, unless a later date is requested by the
 23 defense in order to allow the prosecution to supplement the
 24 materials described in subdivision (d) with the discovery that it is
 25 required to provide pursuant to Sections 1054.1 and 1054.7.
- 26 (d) In determining the existence of probable cause, the
 27 magistrate shall consider any warrant of arrest with supporting
 28 affidavits, and the sworn complaint together with any documents
 29 or reports incorporated by reference thereto, which, if based on
 30 information and belief, state the basis for that information, or any
 31 other documents of similar reliability.
- 32 (e) If, after examining these documents, the court determines
 33 that there exists probable cause to believe that the defendant has

1 committed the offense charged in the complaint, it shall set the
2 matter for trial, in the case of a defendant who is in custody, or
3 maintain the trial date already calendered, in the case of a defendant
4 who is not in custody.

5 (f) If the court determines that no probable cause exists, it shall
6 dismiss the complaint and discharge the defendant.

7 (g) The prosecution may refile the complaint within 15 days of
8 the dismissal of a complaint pursuant to this section.

9 (h) A second dismissal pursuant to this section is a bar to any
10 other prosecution for the same offense.

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