

AMENDED IN SENATE AUGUST 31, 2015

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, 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, 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. ~~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, on motion of counsel for the defendant or
17 the defendant, shall determine whether there is probable cause to
18 believe that a public offense has been committed and that the
19 defendant is guilty thereof. ~~The determination shall be made 30~~
20 ~~days before the date calendared for trial at the arraignment, unless~~
21 ~~a later date is requested by the defense in order to allow the~~
22 ~~prosecution to supplement the materials described in subdivision~~
23 ~~(d) with the discovery that it is required to provide pursuant to~~
24 ~~Sections 1054.1 and 1054.7.~~

25 (d) In determining the existence of probable cause, the
26 magistrate shall consider any warrant of arrest with supporting
27 affidavits, and the sworn complaint together with any documents
28 or reports incorporated by reference thereto, which, if based on
29 information and belief, state the basis for that information, or any
30 other documents of similar reliability.

31 (e) If, after examining these documents, the court determines
32 that there exists probable cause to believe that the defendant has
33 committed the offense charged in the complaint, it shall set the

1 matter for trial, in the case of a defendant who is in custody, or
2 maintain the trial date already calendered, in the case of a defendant
3 who is not in custody.

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

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

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

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