

Assembly Bill No. 696

Passed the Assembly September 8, 2015

Chief Clerk of the Assembly

Passed the Senate September 3, 2015

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL'S DIGEST

AB 696, 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 people of the State of California do enact as follows:

SECTION 1. Section 991 of the Penal Code is amended to read:

991. (a) 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, shall determine whether there is probable cause to believe that a public offense has been committed and that the defendant is guilty thereof.

(b) The determination of probable cause shall be made immediately unless the court grants a continuance for good cause not to exceed three court days.

(c) 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, shall determine whether there is probable cause to believe that a public offense has been committed and that the defendant is guilty thereof.

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

(e) If, after examining these documents, the court determines that there exists probable cause to believe that the defendant has committed the offense charged in the complaint, it shall set the matter for trial, in the case of a defendant who is in custody, or maintain the trial date already calendered, in the case of a defendant who is not in custody.

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

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

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

Approved _____, 2015

Governor