

ASSEMBLY BILL

No. 1375

Introduced by Assembly Member Thurmond

February 27, 2015

An act to amend Sections 1205 and 2900.5 of the Penal Code, relating to nonpayment of fines.

LEGISLATIVE COUNSEL'S DIGEST

AB 1375, as introduced, Thurmond. Criminal penalties: nonpayment of fines.

Existing law provides that a judgment that a criminal defendant pay a fine, other than a restitution fine or order, may also direct that he or she be imprisoned until the fine is satisfied. Existing law requires the judgment to specify the term of imprisonment for nonpayment of the fine, and prohibits that term from exceeding one day for each \$30 of the fine, or exceeding the term for which the defendant may be sentenced for the offense of which he or she has been convicted.

Existing law also provides that in all felony and misdemeanor convictions, either by plea or by verdict, when the defendant has been in custody, all days of custody of the defendant, as specified, are to be credited upon his or her term of imprisonment, or credited to any fine, on a proportional basis, that may be imposed, at the rate of not less than \$30 per day, in the discretion of the court imposing the sentence.

This bill would increase those rates from not less than \$30 to not less than \$125 per day.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 1205 of the Penal Code is amended to
2 read:

3 1205. (a) A judgment that the defendant pay a fine, with or
4 without other punishment, may also direct that he or she be
5 imprisoned until the fine is satisfied and may further direct that
6 the imprisonment begin at and continue after the expiration of any
7 imprisonment imposed as a part of the punishment or of any other
8 imprisonment to which the defendant may have been sentenced.
9 The judgment shall specify the term of imprisonment for
10 nonpayment of the fine, which shall not be more than one day for
11 each ~~thirty dollars (\$30)~~ *one hundred twenty five dollars (\$125)*
12 of the fine, nor exceed the term for which the defendant may be
13 sentenced to imprisonment for the offense of which he or she has
14 been convicted. A defendant held in custody for nonpayment of a
15 fine shall be entitled to credit on the fine for each day he or she is
16 held in custody, at the rate specified in the judgment. When the
17 defendant has been convicted of a misdemeanor, a judgment that
18 the defendant pay a fine may also direct that he or she pay the fine
19 within a limited time or in installments on specified dates, and that
20 in default of payment as stipulated he or she be imprisoned in the
21 discretion of the court either until the defaulted installment is
22 satisfied or until the fine is satisfied in full; but unless the direction
23 is given in the judgment, the fine shall be payable.

24 (b) Except as otherwise provided in case of fines imposed, as
25 a condition of probation, the defendant shall pay the fine to the
26 clerk of the court, or to the judge if there is no clerk, unless the
27 defendant is taken into custody for nonpayment of the fine, in
28 which event payments made while he or she is in custody shall be
29 made to the officer who holds the defendant in custody, and all
30 amounts paid shall be paid over by the officer to the court that
31 rendered the judgment. The clerk shall report to the court every
32 default in payment of a fine or any part of that fine, or if there is
33 no clerk, the court shall take notice of the default. If time has been
34 given for payment of a fine or it has been made payable in
35 installments, the court shall, upon any default in payment,
36 immediately order the arrest of the defendant and order him or her
37 to show cause why he or she should not be imprisoned until the
38 fine or installment is satisfied in full. If the fine or installment is

1 payable forthwith and it is not paid, the court shall, without further
2 proceedings, immediately commit the defendant to the custody of
3 the proper officer to be held in custody until the fine or installment
4 is satisfied in full.

5 (c) This section applies to any violation of any of the codes or
6 statutes of this state punishable by a fine or by a fine and
7 imprisonment.

8 (d) Nothing in this section shall be construed to prohibit the
9 clerk of the court, or the judge if there is no clerk, from turning
10 these accounts over to another county department or a collecting
11 agency for processing and collection.

12 (e) The defendant shall pay to the clerk of the court or the
13 collecting agency a fee for the processing of installment accounts.
14 This fee shall equal the administrative and clerical costs, as
15 determined by the board of supervisors, or by the court, depending
16 on which entity administers the account. The defendant shall pay
17 to the clerk of the court or the collecting agency the fee established
18 for the processing of the accounts receivable that are not to be paid
19 in installments. The fee shall equal the administrative and clerical
20 costs, as determined by the board of supervisors, or by the court,
21 depending on which entity administers the account, except that
22 the fee shall not exceed thirty dollars (\$30).

23 (f) This section shall not apply to restitution fines and restitution
24 orders.

25 SEC. 2. Section 2900.5 of the Penal Code is amended to read:

26 2900.5. (a) In all felony and misdemeanor convictions, either
27 by plea or by verdict, when the defendant has been in custody,
28 including, but not limited to, any time spent in a jail, camp, work
29 furlough facility, halfway house, rehabilitation facility, hospital,
30 prison, juvenile detention facility, or similar residential institution,
31 all days of custody of the defendant, including days served as a
32 condition of probation in compliance with a court order, credited
33 to the period of confinement pursuant to Section 4019, and days
34 served in home detention pursuant to Section 1203.016 or
35 1203.018, shall be credited upon his or her term of imprisonment,
36 or credited to any fine, including, but not limited to, base fines, on
37 a proportional basis, that may be imposed, at the rate of not less
38 than ~~thirty dollars (\$30)~~ *one hundred twenty five dollars (\$125)*
39 per day, or more, in the discretion of the court imposing the
40 sentence. If the total number of days in custody exceeds the number

1 of days of the term of imprisonment to be imposed, the entire term
2 of imprisonment shall be deemed to have been served. In any case
3 where the court has imposed both a prison or jail term of
4 imprisonment and a fine, any days to be credited to the defendant
5 shall first be applied to the term of imprisonment imposed, and
6 thereafter the remaining days, if any, shall be applied to the fine,
7 including, but not limited to, base fines, on a proportional basis.

8 (b) For the purposes of this section, credit shall be given only
9 where the custody to be credited is attributable to proceedings
10 related to the same conduct for which the defendant has been
11 convicted. Credit shall be given only once for a single period of
12 custody attributable to multiple offenses for which a consecutive
13 sentence is imposed.

14 (c) For the purposes of this section, “term of imprisonment”
15 includes any period of imprisonment imposed as a condition of
16 probation or otherwise ordered by a court in imposing or
17 suspending the imposition of any sentence, and also includes any
18 term of imprisonment, including any period of imprisonment prior
19 to release on parole and any period of imprisonment and parole,
20 prior to discharge, whether established or fixed by statute, by any
21 court, or by any duly authorized administrative agency.

22 (d) It is the duty of the court imposing the sentence to determine
23 the date or dates of any admission to, and release from, custody
24 prior to sentencing and the total number of days to be credited
25 pursuant to this section. The total number of days to be credited
26 shall be contained in the abstract of judgment provided for in
27 Section 1213.

28 (e) It is the duty of any agency to which a person is committed
29 to apply the credit provided for in this section for the period
30 between the date of sentencing and the date the person is delivered
31 to the agency.

32 (f) If a defendant serves time in a camp, work furlough facility,
33 halfway house, rehabilitation facility, hospital, juvenile detention
34 facility, similar residential facility, or home detention program
35 pursuant to Section 1203.016, 1203.017, or 1203.018, in lieu of
36 imprisonment in a county jail, the time spent in these facilities or
37 programs shall qualify as mandatory time in jail.

38 (g) Notwithstanding any other provision of this code as it
39 pertains to the sentencing of convicted offenders, this section does

- 1 not authorize the sentencing of convicted offenders to any of the
- 2 facilities or programs mentioned herein.

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