

ASSEMBLY BILL

No. 1927

Introduced by Assembly Member Lackey

February 12, 2016

An act to amend Section 853.9 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 1927, as introduced, Lackey. Criminal procedure: notice to appear.

Existing law, under specified circumstances, requires an officer or his or her superior to prepare in duplicate a written notice for an arrested person to appear in court. Existing law requires that when an officer or the prosecuting attorney has filed the notice to appear with the court, an exact and legible duplicate copy of the notice, in lieu of a verified complaint, constitutes a complaint to which the defendant may plead “guilty” or “nolo contendere.”

This bill would provide that, if the citation issued to the arrested person is being transmitted in electronic form, the copy of the citation issued to the arrested person need not include the signature of the arrested person, unless specifically requested by the arrested person.

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 853.9 of the Penal Code is amended to
2 read:

1 853.9. (a) ~~Whenever~~ (1) *If* written notice to appear has been
 2 prepared, delivered, and filed by an officer or the prosecuting
 3 attorney with the court pursuant to ~~the provisions of Section 853.6~~
 4 ~~of this code~~, 853.6, an exact and legible duplicate copy of the
 5 notice when filed with the magistrate, in lieu of a verified
 6 complaint, shall constitute a complaint to which the defendant may
 7 plead “guilty” or “nolo contendere.”

8 ~~If, however, the~~
 9 (2) *If the* defendant violates his or her promise to appear in
 10 court, or does not deposit lawful bail, or pleads other than “guilty”
 11 or “nolo contendere” to the offense charged, a complaint shall be
 12 filed which shall conform to the provisions of this code and which
 13 shall be deemed to be an original complaint; and thereafter
 14 proceedings shall be had as provided by law, except that a
 15 defendant may, by an agreement in writing, subscribed by him or
 16 her and filed with the court, waive the filing of a verified complaint
 17 and elect that the prosecution may proceed upon a written notice
 18 to appear.

19 (b) Notwithstanding ~~the provisions of subdivision (a) of this~~
 20 ~~section, whenever~~ *subdivision (a)*, if the written notice to appear
 21 has been prepared on a form approved by the Judicial Council, an
 22 exact and legible duplicate copy of the notice when filed with the
 23 magistrate shall constitute a complaint to which the defendant may
 24 enter a plea and, if the notice to appear is verified, upon which a
 25 warrant may be issued. If the notice to appear is not verified, the
 26 defendant may, at the time of arraignment, request that a verified
 27 complaint be filed.

28 (c) *If the citation issued to the arrested person is being*
 29 *transmitted in electronic form, the copy of the citation issued to*
 30 *the arrested person need not include the signature of the arrested*
 31 *person, unless specifically requested by the arrested person.*