

AMENDED IN ASSEMBLY JULY 7, 2015
AMENDED IN ASSEMBLY JUNE 24, 2015
AMENDED IN SENATE JUNE 1, 2015
AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 405

Introduced by Senator Hertzberg
(Principal coauthor: Senator Leno)
(Coauthors: Senators Beall and Wieckowski)
(Coauthors: Assembly Members Atkins, Chiu, Cooley, Dodd, Gonzalez,
and Jones-Sawyer)

February 25, 2015

An act to amend Section 1214.1 of the Penal Code, *and to add Section 42008.9 to the Vehicle Code*, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 405, as amended, Hertzberg. Failure to appear in court: fines.

Existing law authorizes the court, in addition to any other penalty in an infraction, misdemeanor, or felony case, to impose a civil assessment of up to \$300 against any defendant who fails, after notice and without good cause, to appear in court for any proceeding authorized by law, or who fails to pay all or any portion of a fine ordered by the court or to pay an installment of bail, as specified. Existing law provides that the assessment shall not become effective until at least 10 calendar days after the court mails a warning notice to the defendant, and requires the court, if the defendant appears within the time specified in the notice and shows good cause for the failure to appear or for the failure to pay a fine or installment of bail, to vacate the assessment.

The bill would provide that ability to post bail or to pay the fine or civil assessment is not a prerequisite to filing a request that the court vacate the assessment. The bill would also provide that the imposition or collection of bail or a civil assessment does not preclude a defendant from scheduling a court hearing on the underlying charge.

This bill would instead provide that the assessment would not become effective until at least 20 calendar days after the court mails a warning notice to the defendant. The bill would provide that payment of bail, fines, penalties, fees, or a civil assessment is not required in order for the court to vacate the assessment at the time the person makes an appearance, as specified. The bill would also provide that payment of a civil assessment is not required to schedule a court hearing on a pending underlying charge.

Existing law authorized the court and county to establish a one-time amnesty program for fines or bail for specified infractions and misdemeanor violations due on or before January 1, 2009, if certain conditions were met, including that payments under the program were made between January 1, 2012, and June 30, 2012, inclusive. Existing law allowed a person owing a fine or bail that was eligible for amnesty under the program to pay to the court 50% of the total fine or bail, as defined, which the court was required to accept in full satisfaction of the delinquent fine or bail.

This bill would require the court to allow a person with a driver's license that is suspended for a specified reason, including violation of a written promise to appear in court, when the suspension was issued between January 1, 2013, and December 31, 2015, inclusive, and the person has an established payment plan for the fees or penalties connected to the suspension, and the person is not in default on any payments under that plan, to appear in court and ask for the suspension to be lifted and for the person's driving privilege to be restored. The bill would require the court to direct the department to lift the suspension and restore the person's driving privilege. The bill would require, upon completion of the payment plan, that the court file a certificate with the department indicating that the person has fully paid the amount owing. The bill would provide that these requirements do not affect the total amount of delinquent fines or penalties, and authorizes collection proceedings if the person defaults on the payment plan.

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

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

1 SECTION 1. Section 1214.1 of the Penal Code is amended to
2 read:

3 1214.1. (a) In addition to any other penalty in infraction,
4 misdemeanor, or felony cases, the court may impose a civil
5 assessment of up to three hundred dollars (\$300) against a
6 defendant who fails, after notice and without good cause, to appear
7 in court for a proceeding authorized by law or who fails to pay all
8 or any portion of a fine ordered by the court or to pay an installment
9 of bail as agreed to under Section 40510.5 of the Vehicle Code.
10 This assessment shall be deposited in the Trial Court Trust Fund,
11 as provided in Section 68085.1 of the Government Code.

12 (b) (1) The assessment imposed pursuant to subdivision (a)
13 shall not become effective until at least ~~10~~ 20 calendar days after
14 the court mails a warning notice to the defendant by first-class
15 mail to the address shown on the notice to appear or to the
16 defendant's last known address. If the defendant appears within
17 the time specified in the notice and shows good cause for the failure
18 to appear or for the failure to pay a fine or installment of bail, the
19 court shall vacate the assessment.

20 (2) ~~Ability to post bail or to pay the civil assessment shall not~~
21 ~~be a prerequisite to filing a request that the court vacate the~~
22 ~~assessment. Imposition or collection of bail or Payment of bail,~~
23 ~~finer, penalties, fees, or a civil assessment shall not be required~~
24 ~~in order for the court to vacate the assessment at the time of~~
25 ~~appearance pursuant to paragraph (1). Payment of a civil~~
26 ~~assessment shall not preclude a defendant from scheduling be~~
27 ~~required to schedule a court hearing on the a pending underlying~~
28 ~~charge.~~

29 (c) If a civil assessment is imposed pursuant to subdivision (a),
30 no bench warrant or warrant of arrest shall be issued with respect
31 to the failure to appear at the proceeding for which the assessment
32 is imposed or the failure to pay the fine or installment of bail. An
33 outstanding, unserved bench warrant or warrant of arrest for a
34 failure to appear or for a failure to pay a fine or installment of bail
35 shall be recalled prior to the subsequent imposition of a civil
36 assessment.

1 (d) The assessment imposed pursuant to subdivision (a) shall
2 be subject to the due process requirements governing defense and
3 collection of civil money judgments generally.

4 (e) Each court and county shall maintain the collection program
5 that was in effect on July 1, 2005, unless otherwise agreed to by
6 the court and county. If a court and a county do not agree on a plan
7 for the collection of civil assessments imposed pursuant to this
8 section, or any other collections under Section 1463.010, after the
9 implementation of Sections 68085.6 and 68085.7 of the
10 Government Code, the court or the county may request arbitration
11 by a third party mutually agreed upon by the Administrative
12 Director of the Courts and the California State Association of
13 Counties.

14 *SEC. 2. Section 42008.9 is added to the Vehicle Code, to read:*
15 *42008.9. (a) The court shall allow a person with a driver's*
16 *license suspension pursuant to Section 13365 that was issued from*
17 *January 1, 2013, through December 31, 2015, inclusive, and the*
18 *person has an established payment plan for the fees or penalties*
19 *connected to the suspension, and the person is not in default on*
20 *any payments under that plan, to appear in court and ask for the*
21 *suspension to be lifted and for the person's driving privilege to be*
22 *restored. The court shall direct the department to lift the suspension*
23 *and restore the person's driving privilege.*

24 *(b) Upon completion of the payment plan described in*
25 *subdivision (a), the court shall issue and file with the department*
26 *the appropriate certificate pursuant to subdivision (b) of Section*
27 *40509.*

28 *(c) This section does not affect the total amount of delinquent*
29 *finer or bail owed by the person. If a person subject to this section*
30 *defaults on the payment plan described in subdivision (a), the court*
31 *shall pursue collection of the delinquent fines or bail pursuant to*
32 *Section 1463.007 of the Penal Code. However, those collection*
33 *efforts shall not include a suspension of the person's driver's*
34 *license.*

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