

AMENDED IN ASSEMBLY SEPTEMBER 4, 2015

AMENDED IN ASSEMBLY AUGUST 27, 2015

AMENDED IN ASSEMBLY AUGUST 17, 2015

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**

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**Introduced by Senator Hertzberg**

**(Principal coauthors: Senators Hill and Leno)**

**(Coauthors: Senators Beall and Wieckowski)**

(Coauthors: Assembly Members Atkins, Chang, Chiu, Cooley, Dodd,  
Cristina Garcia, Gonzalez, Jones-Sawyer, and Lackey)

February 25, 2015

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An act to amend Section 1214.1 of the Penal Code, and to amend Section 42008.8 of the Vehicle Code, relating to crimes, and declaring the urgency thereof, to take effect immediately.

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.

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 requires a county to establish an amnesty program for fines and bail initially due on or before January 1, 2013, for Vehicle Code infractions to be conducted in accordance with guidelines adopted by the Judicial Council. Existing law requires the program to accept payments from October 1, 2015, to March 31, 2017, inclusive. Eligibility criteria for the program include, among other things, that the person is not currently making payments to a comprehensive collection program for fines or bail already due, as specified.

This bill would revise that criterion to make a person eligible for the program if he or she has not made any payments after September 30, 2015, to a comprehensive collection program for fines or bail already due. *The bill would authorize the Judicial Council to consider, adopt, or develop recommendations for an appropriate mechanism to allow reinstatement of the driving privileges of a person who otherwise meets the criteria for amnesty but who has violations in more than one county.*

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . 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 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

1 defendant who fails, after notice and without good cause, to appear  
2 in court for a proceeding authorized by law or who fails to pay all  
3 or any portion of a fine ordered by the court or to pay an installment  
4 of bail as agreed to under Section 40510.5 of the Vehicle Code.  
5 This assessment shall be deposited in the Trial Court Trust Fund,  
6 as provided in Section 68085.1 of the Government Code.

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

15 (2) Payment of bail, fines, penalties, fees, or a civil assessment  
16 shall not be required in order for the court to vacate the assessment  
17 at the time of appearance pursuant to paragraph (1). Payment of a  
18 civil assessment shall not be required to schedule a court hearing  
19 on a pending underlying charge.

20 (c) If a civil assessment is imposed pursuant to subdivision (a),  
21 no bench warrant or warrant of arrest shall be issued with respect  
22 to the failure to appear at the proceeding for which the assessment  
23 is imposed or the failure to pay the fine or installment of bail. An  
24 outstanding, unserved bench warrant or warrant of arrest for a  
25 failure to appear or for a failure to pay a fine or installment of bail  
26 shall be recalled prior to the subsequent imposition of a civil  
27 assessment.

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

31 (e) Each court and county shall maintain the collection program  
32 that was in effect on July 1, 2005, unless otherwise agreed to by  
33 the court and county. If a court and a county do not agree on a plan  
34 for the collection of civil assessments imposed pursuant to this  
35 section, or any other collections under Section 1463.010, after the  
36 implementation of Sections 68085.6 and 68085.7 of the  
37 Government Code, the court or the county may request arbitration  
38 by a third party mutually agreed upon by the Administrative  
39 Director of the Courts and the California State Association of  
40 Counties.

1 SEC. 2. Section 42008.8 of the Vehicle Code is amended to  
2 read:

3 42008.8. (a) The Legislature finds and declares that a one-time  
4 infraction amnesty program would do all of the following:

5 (1) Provide relief to individuals who have found themselves in  
6 violation of a court-ordered obligation because they have unpaid  
7 traffic bail or fines.

8 (2) Provide relief to individuals who have found themselves in  
9 violation of a court-ordered obligation or who have had their  
10 driving privileges suspended pursuant to Section 13365.

11 (3) Provide increased revenue at a time when revenue is scarce  
12 by encouraging payment of old fines that have remained unpaid.

13 (4) Allow courts and counties to resolve older delinquent cases  
14 and focus limited resources on collections for more recent cases.

15 (b) A one-time amnesty program for fines and bail meeting the  
16 eligibility requirements set forth in subdivision (g) shall be  
17 established in each county. Unless agreed otherwise by the court  
18 and the county in writing, the government entities that are  
19 responsible for the collection of delinquent court-ordered debt  
20 shall be responsible for implementation of the amnesty program  
21 as to that debt, maintaining the same division of responsibility in  
22 place with respect to the collection of court-ordered debt under  
23 subdivision (b) of Section 1463.010 of the Penal Code.

24 (c) As used in this section, the term “fine” or “bail” refers to  
25 the total amounts due in connection with a specific violation, which  
26 include, but are not limited to, all of the following:

27 (1) Base fine or bail, as established by court order, by statute,  
28 or by the court’s bail schedule.

29 (2) Penalty assessments imposed pursuant to Section 1464 of  
30 the Penal Code, and Sections 70372, 76000, 76000.5, 76104.6,  
31 and 76104.7 of, and paragraph (1) of subdivision (c) of Section  
32 76000.10 of, the Government Code, and Section 42006 of this  
33 code.

34 (3) State surcharges imposed pursuant to Section 1465.7 of the  
35 Penal Code.

36 (4) Court operations assessments imposed pursuant to Section  
37 1465.8 of the Penal Code.

38 (5) Criminal conviction assessments pursuant to Section 70373  
39 of the Government Code.

1 (d) Notwithstanding subdivision (c), any civil assessment  
2 imposed pursuant to Section 1214.1 of the Penal Code shall not  
3 be collected, nor shall the payment of that assessment be a  
4 requirement of participation in the amnesty program.

5 (e) Concurrent with the amnesty program established pursuant  
6 to subdivision (b), between October 1, 2015, to March 31, 2017,  
7 inclusive, the following shall apply:

8 (1) The court shall issue and file with the Department of Motor  
9 Vehicles the appropriate certificate pursuant to subdivisions (a)  
10 and (b) of Section 40509 for any participant of the one-time  
11 amnesty program established pursuant to subdivision (b)  
12 demonstrating that the participant has appeared in court, paid the  
13 fine, or otherwise satisfied the court, if the driving privilege of that  
14 participant was suspended pursuant to Section 13365 in connection  
15 with a specific violation described in paragraph (1), (2), or (3) of  
16 subdivision (g).

17 (2) The court shall issue and file with the department the  
18 appropriate certificate pursuant to subdivisions (a) and (b) of  
19 Section 40509 for any person in good standing in a comprehensive  
20 collection program pursuant to subdivision (c) of Section 1463.007  
21 of the Penal Code demonstrating that the person has appeared in  
22 court, paid the fine, or otherwise satisfied the court, if the driving  
23 privilege was suspended pursuant to Section 13365 in connection  
24 with a specific violation described in paragraph (1), (2), or (3) of  
25 subdivision (g).

26 (3) Any person who is eligible for a driver's license pursuant  
27 to Section 12801, 12801.5, or 12801.9 shall be eligible for the  
28 amnesty program established pursuant to subdivision (b) for any  
29 specific violation described in subdivision (g). The department  
30 shall issue a driver's license to any person who is eligible pursuant  
31 to Section 12801, 12801.5, or 12801.9 if the person is participating  
32 in the amnesty program and is otherwise eligible for the driver's  
33 license but for the fines or bail to be collected through the program.

34 (4) The Department of Motor Vehicles shall not deny reinstating  
35 the driving privilege of any person who participates in the amnesty  
36 program established pursuant to subdivision (b) for any fines or  
37 bail in connection with the specific violation that is the basis for  
38 participation in the amnesty program.

39 (f) In addition to, and at the same time as, the mandatory  
40 one-time amnesty program is established pursuant to subdivision

1 (b), the court and the county may jointly agree to extend that  
2 amnesty program to fines and bail imposed for a misdemeanor  
3 violation of this code and a violation of Section 853.7 of the Penal  
4 Code that was added to the misdemeanor case otherwise subject  
5 to the amnesty. The amnesty program authorized pursuant to this  
6 subdivision shall not apply to parking violations and violations of  
7 Sections 23103, 23104, 23105, 23152, and 23153.

8 (g) A violation is only eligible for amnesty if paragraph (1), (2),  
9 or (3) applies, and the requirements of paragraphs (4) to (7),  
10 inclusive, are met:

11 (1) The violation is an infraction violation filed with the court.

12 (2) It is a violation of subdivision (a) or (b) of Section 40508,  
13 or a violation of Section 853.7 of the Penal Code that was added  
14 to the case subject to paragraph (1).

15 (3) The violation is a misdemeanor violation filed with the court  
16 to which subdivision (f) applies.

17 (4) The initial due date for payment of the fine or bail was on  
18 or before January 1, 2013.

19 (5) There are no outstanding misdemeanor or felony warrants  
20 for the defendant within the county, except for misdemeanor  
21 warrants for misdemeanor violations subject to this section.

22 (6) The person does not owe victim restitution on any case  
23 within the county.

24 (7) The person has not made any payments *for the violation*  
25 after September 30, 2015, to a comprehensive collection program  
26 in the county pursuant to subdivision (c) of Section 1463.007 of  
27 the Penal Code.

28 (h) (1) Except as provided in paragraph (2), each amnesty  
29 program shall accept, in full satisfaction of any eligible fine or  
30 bail, 50 percent of the fine or bail amount, as defined in subdivision  
31 (c).

32 (2) If the participant certifies under penalty of perjury that he  
33 or she receives any of the public benefits listed in subdivision (a)  
34 of Section 68632 of the Government Code or is within the  
35 conditions described in subdivision (b) of Section 68632 of the  
36 Government Code, the amnesty program shall accept, in full  
37 satisfaction of any eligible fine or bail, 20 percent of the fine or  
38 bail amount, as defined in subdivision (c).

39 (i) The Judicial Council, in consultation with the California  
40 State Association of Counties, shall adopt guidelines for the

1 amnesty program no later than October 1, 2015, and each program  
2 shall be conducted in accordance with the Judicial Council's  
3 guidelines. As part of its guidelines, the Judicial Council shall  
4 include all of the following:

5 (1) Each court or county responsible for implementation of the  
6 amnesty program pursuant to subdivision (b) shall recover costs  
7 pursuant to subdivision (a) of Section 1463.007 of the Penal Code  
8 and may charge an amnesty program fee of fifty dollars (\$50) that  
9 may be collected with the receipt of the first payment of a  
10 participant.

11 (2) A payment plan option created pursuant to Judicial Council  
12 guidelines in which a monthly payment is equal to the amount that  
13 an eligible participant can afford to pay per month consistent with  
14 Sections 68633 and 68634 of the Government Code. If a participant  
15 chooses the payment plan option, the county or court shall collect  
16 all relevant information to allow for collection by the Franchise  
17 Tax Board pursuant to existing protocols prescribed by the  
18 Franchise Tax Board to collect delinquent debts of any amount in  
19 which a participant is delinquent or otherwise in default under his  
20 or her amnesty payment plan.

21 (3) If a participant does not comply with the terms of his or her  
22 payment plan under the amnesty program, including failing to  
23 make one or more payments, the appropriate agency shall send a  
24 notice to the participant that he or she has failed to make one or  
25 more payments and that the participant has 30 days to either resume  
26 making payments or to request that the agency change the payment  
27 amount. If the participant fails to respond to the notice within 30  
28 days, the appropriate agency may refer the participant to the  
29 Franchise Tax Board for collection of any remaining balance owed,  
30 including an amount equal to the reasonable administrative costs  
31 incurred by the Franchise Tax Board to collect the delinquent  
32 amount owed. The Franchise Tax Board shall collect any  
33 delinquent amounts owed pursuant to existing protocols prescribed  
34 by the Franchise Tax Board. The comprehensive collection  
35 program may also utilize additional collection efforts pursuant to  
36 Section 1463.007 of the Penal Code, except for subparagraph (C)  
37 of paragraph (4) of subdivision (c) of that section.

38 (4) A plan for outreach that will, at a minimum, make available  
39 via an Internet Web site relevant information regarding the amnesty

1 program, including how an individual may participate in the  
2 amnesty program.

3 (5) The Judicial Council shall reimburse costs incurred by the  
4 Department of Motor Vehicles up to an amount not to exceed two  
5 hundred fifty thousand dollars (\$250,000), including all of the  
6 following:

7 (A) Providing on a separate insert with each motor vehicle  
8 registration renewal notice a summary of the amnesty program  
9 established pursuant to this section that is compliant with Section  
10 7292 of the Government Code.

11 (B) Posting on the department’s Internet Web site information  
12 regarding the amnesty program.

13 (C) Personnel costs associated with the amnesty program.

14 (j) *The Judicial Council, in consultation with the department,*  
15 *may, within its existing resources, consider, adopt, or develop*  
16 *recommendations for an appropriate mechanism or mechanisms*  
17 *to allow reinstatement of the driving privilege of any person who*  
18 *otherwise meets the criteria for amnesty but who has violations*  
19 *in more than one county.*

20 (k) No criminal action shall be brought against a person for a  
21 delinquent fine or bail paid under the amnesty program.

22 ~~(k)~~

23 (l) (1) The total amount of funds collected under the amnesty  
24 program shall, as soon as practical after receipt thereof, be  
25 deposited in the county treasury or the account established under  
26 Section 77009 of the Government Code. After acceptance of the  
27 amount specified in subdivision (h), notwithstanding Section  
28 1203.1d of the Penal Code, the remaining revenues collected under  
29 the amnesty program shall be distributed on a pro rata basis in the  
30 same manner as a partial payment distributed pursuant to Section  
31 1462.5 of the Penal Code.

32 (2) Notwithstanding Section 1464 of the Penal Code, the amount  
33 of funds collected pursuant to this section that would be available  
34 for distribution pursuant to subdivision (f) of Section 1464 of the  
35 Penal Code shall instead be distributed as follows:

36 (A) The first two hundred fifty thousand dollars (\$250,000)  
37 received shall be transferred to the Judicial Council.

38 (B) Following the transfer of the funds described in  
39 subparagraph (A), once a month, both of the following transfers  
40 shall occur:

1 (i) An amount equal to 82.20 percent of the amount of funds  
2 collected pursuant to this section during the preceding month shall  
3 be transferred into the Peace Officers' Training Fund.

4 (ii) An amount equal to 17.80 percent of the amount of funds  
5 collected pursuant to this section during the preceding month shall  
6 be transferred into the Corrections Training Fund.

7 ~~(j)~~

8 (m) Each court or county implementing an amnesty program  
9 shall file, not later than May 31, 2017, a written report with the  
10 Judicial Council, on a form approved by the Judicial Council. The  
11 report shall include information about the number of cases resolved,  
12 the amount of money collected, and the operating costs of the  
13 amnesty program. Notwithstanding Section 10231.5 of the  
14 Government Code, on or before August 31, 2017, the Judicial  
15 Council shall submit a report to the Legislature summarizing the  
16 information provided by each court or county.

17 SEC. 3. This act is an urgency statute necessary for the  
18 immediate preservation of the public peace, health, or safety within  
19 the meaning of Article IV of the Constitution and shall go into  
20 immediate effect. The facts constituting the necessity are:

21 In order to ensure orderly administration and implementation of  
22 the amnesty program for Vehicle Code violations as soon as  
23 possible, it is necessary that this measure take effect immediately.