

AMENDED IN SENATE AUGUST 17, 2009

AMENDED IN ASSEMBLY JUNE 2, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1209

Introduced by Assembly Members Ma and Hagman

February 27, 2009

An act to amend Section 853.6 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 1209, as amended, Ma. Identification.

Existing law regarding misdemeanor release procedures provides that an officer may book an arrested person prior to release or indicate on the citation that the arrested person shall appear at the arresting agency to be booked or indicate on the citation that the arrested person shall appear at the arresting agency to be fingerprinted prior to the arrested person's court date.

This bill would specify that an officer may book the arrested person at the scene or at the arresting agency prior to release.

This bill would incorporate additional changes to Section 853.6 of the Penal Code proposed by AB 688 contingent on the prior enactment of that bill.

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

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

SECTION 1. Section 853.6 of the Penal Code is amended to read:

853.6. (a) In any case in which a person is arrested for an offense declared to be a misdemeanor, including a violation of any city or county ordinance, and does not demand to be taken before a magistrate, that person shall, instead of being taken before a magistrate, be released according to the procedures set forth by this chapter, although nothing prevents an officer from first booking an arrestee pursuant to subdivision (g). If the person is released, the officer or his or her superior shall prepare in duplicate a written notice to appear in court, containing the name and address of the person, the offense charged, and the time when, and place where, the person shall appear in court. If, pursuant to subdivision (i), the person is not released prior to being booked and the officer in charge of the booking or his or her superior determines that the person should be released, the officer or his or her superior shall prepare a written notice to appear in a court.

In any case in which a person is arrested for a misdemeanor violation of a protective court order involving domestic violence, as defined in subdivision (b) of Section 13700, or arrested pursuant to a policy, as described in Section 13701, the person shall be taken before a magistrate instead of being released according to the procedures set forth in this chapter, unless the arresting officer determines that there is not a reasonable likelihood that the offense will continue or resume or that the safety of persons or property would be imminently endangered by release of the person arrested. Prior to adopting these provisions, each city, county, or city and county shall develop a protocol to assist officers to determine when arrest and release is appropriate, rather than taking the arrested person before a magistrate. The county shall establish a committee to develop the protocol, consisting of, at a minimum, the police chief or county sheriff within the jurisdiction, the district attorney, county counsel, city attorney, representatives from domestic violence shelters, domestic violence councils, and other relevant community agencies.

Nothing in this subdivision shall be construed to affect a defendant's ability to be released on bail or on his or her own recognizance.

1 (b) Unless waived by the person, the time specified in the notice
2 to appear shall be at least 10 days after arrest if the duplicate notice
3 is to be filed by the officer with the magistrate.

4 (c) The place specified in the notice shall be the court of the
5 magistrate before whom the person would be taken if the
6 requirement of taking an arrested person before a magistrate were
7 complied with, or shall be an officer authorized by that court to
8 receive a deposit of bail.

9 (d) The officer shall deliver one copy of the notice to appear to
10 the arrested person, and the arrested person, in order to secure
11 release, shall give his or her written promise to appear in court as
12 specified in the notice by signing the duplicate notice which shall
13 be retained by the officer, and the officer may require the arrested
14 person, if he or she has no satisfactory identification, to place a
15 right thumbprint, or a left thumbprint or fingerprint if the person
16 has a missing or disfigured right thumb, on the notice to appear.
17 Except for law enforcement purposes relating to the identity of the
18 arrestee, no person or entity may sell, give away, allow the
19 distribution of, include in a database, or create a database with,
20 this print. Upon the signing of the duplicate notice, the arresting
21 officer shall immediately release the person arrested from custody.

22 (e) The officer shall, as soon as practicable, file the duplicate
23 notice, as follows:

24 (1) It shall be filed with the magistrate if the offense charged is
25 an infraction.

26 (2) It shall be filed with the magistrate if the prosecuting attorney
27 has previously directed the officer to do so.

28 (3) The duplicate notice and underlying police reports in support
29 of the charge or charges shall be filed with the prosecuting attorney
30 in cases other than those specified in paragraphs (1) and (2).

31 If the duplicate notice is filed with the prosecuting attorney, he
32 or she, within his or her discretion, may initiate prosecution by
33 filing the notice or a formal complaint with the magistrate specified
34 in the duplicate notice within 25 days from the time of arrest. If
35 the prosecution is not to be initiated, the prosecutor shall send
36 notice to the person arrested at the address on the notice to appear.
37 The failure by the prosecutor to file the notice or formal complaint
38 within 25 days of the time of the arrest shall not bar further
39 prosecution of the misdemeanor charged in the notice to appear.

1 However, any further prosecution shall be preceded by a new and
2 separate citation or an arrest warrant.

3 Upon the filing of the notice with the magistrate by the officer,
4 or the filing of the notice or formal complaint by the prosecutor,
5 the magistrate may fix the amount of bail that in his or her
6 judgment, in accordance with Section 1275, is reasonable and
7 sufficient for the appearance of the defendant and shall endorse
8 upon the notice a statement signed by him or her in the form set
9 forth in Section 815a. The defendant may, prior to the date upon
10 which he or she promised to appear in court, deposit with the
11 magistrate the amount of bail set by the magistrate. At the time
12 the case is called for arraignment before the magistrate, if the
13 defendant does not appear, either in person or by counsel, the
14 magistrate may declare the bail forfeited, and may, in his or her
15 discretion, order that no further proceedings shall be had in the
16 case, unless the defendant has been charged with a violation of
17 Section 374.3 or 374.7 of this code or of Section 11357, 11360,
18 or 13002 of the Health and Safety Code, or a violation punishable
19 under Section 5008.7 of the Public Resources Code, and he or she
20 has previously been convicted of a violation of that section or a
21 violation that is punishable under that section, except in cases
22 where the magistrate finds that undue hardship will be imposed
23 upon the defendant by requiring him or her to appear, the
24 magistrate may declare the bail forfeited and order that no further
25 proceedings be had in the case.

26 Upon the making of the order that no further proceedings be
27 had, all sums deposited as bail shall immediately be paid into the
28 county treasury for distribution pursuant to Section 1463.

29 (f) No warrant shall be issued for the arrest of a person who has
30 given a written promise to appear in court, unless and until he or
31 she has violated that promise or has failed to deposit bail, to appear
32 for arraignment, trial, or judgment or to comply with the terms
33 and provisions of the judgment, as required by law.

34 (g) The officer may book the arrested person at the scene or at
35 the arresting agency prior to release or indicate on the citation that
36 the arrested person shall appear at the arresting agency to be booked
37 or indicate on the citation that the arrested person shall appear at
38 the arresting agency to be fingerprinted prior to the date the arrested
39 person appears in court. If it is indicated on the citation that the
40 arrested person shall be booked or fingerprinted prior to the date

1 of the person's court appearance, the arresting agency at the time
2 of booking or fingerprinting shall provide the arrested person with
3 verification of the booking or fingerprinting by making an entry
4 on the citation. If it is indicated on the citation that the arrested
5 person is to be booked or fingerprinted, the magistrate, judge, or
6 court shall, before the proceedings begin, order the defendant to
7 provide verification that he or she was booked or fingerprinted by
8 the arresting agency. If the defendant cannot produce the
9 verification, the magistrate, judge, or court shall require that the
10 defendant be booked or fingerprinted by the arresting agency before
11 the next court appearance, and that the defendant provide the
12 verification at the next court appearance unless both parties
13 stipulate that booking or fingerprinting is not necessary.

14 (h) A peace officer shall use the written notice to appear
15 procedure set forth in this section for any misdemeanor offense in
16 which the officer has arrested a person without a warrant pursuant
17 to Section 836 or in which he or she has taken custody of a person
18 pursuant to Section 847.

19 (i) Whenever any person is arrested by a peace officer for a
20 misdemeanor, that person shall be released according to the
21 procedures set forth by this chapter unless one of the following is
22 a reason for nonrelease, in which case the arresting officer may
23 release the person, or the arresting officer shall indicate, on a form
24 to be established by his or her employing law enforcement agency,
25 which of the following was a reason for the nonrelease:

26 (1) The person arrested was so intoxicated that he or she could
27 have been a danger to himself or herself or to others.

28 (2) The person arrested required medical examination or medical
29 care or was otherwise unable to care for his or her own safety.

30 (3) The person was arrested under one or more of the
31 circumstances listed in Sections 40302 and 40303 of the Vehicle
32 Code.

33 (4) There were one or more outstanding arrest warrants for the
34 person.

35 (5) The person could not provide satisfactory evidence of
36 personal identification.

37 (6) The prosecution of the offense or offenses for which the
38 person was arrested, or the prosecution of any other offense or
39 offenses, would be jeopardized by immediate release of the person
40 arrested.

(7) There was a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by release of the person arrested.

(8) The person arrested demanded to be taken before a magistrate or refused to sign the notice to appear.

(9) There is reason to believe that the person would not appear at the time and place specified in the notice. The basis for this determination shall be specifically stated.

The form shall be filed with the arresting agency as soon as practicable and shall be made available to any party having custody of the arrested person, subsequent to the arresting officer, and to any person authorized by law to release him or her from custody before trial.

(j) Once the arresting officer has prepared the written notice to appear and has delivered a copy to the person arrested, the officer shall deliver the remaining original and all copies as provided by subdivision (e).

Any person, including the arresting officer and any member of the officer's department or agency, or any peace officer, who alters, conceals, modifies, nullifies, or destroys, or causes to be altered, concealed, modified, nullified, or destroyed, the face side of the remaining original or any copy of a citation that was retained by the officer, for any reason, before it is filed with the magistrate or with a person authorized by the magistrate to receive deposit of bail, is guilty of a misdemeanor.

If, after an arrested person has signed and received a copy of a notice to appear, the arresting officer determines that, in the interest of justice, the citation or notice should be dismissed, the arresting agency may recommend, in writing, to the magistrate that the charges be dismissed. The recommendation shall cite the reasons for the recommendation and shall be filed with the court.

If the magistrate makes a finding that there are grounds for dismissal, the finding shall be entered in the record and the charges dismissed.

Under no circumstances shall a personal relationship with any officer, public official, or law enforcement agency be grounds for dismissal.

(k) (1) A person contesting a charge by claiming under penalty of perjury not to be the person issued the notice to appear may choose to submit a right thumbprint, or a left thumbprint if the

1 person has a missing or disfigured right thumb, to the issuing court
2 through his or her local law enforcement agency for comparison
3 with the one placed on the notice to appear. A local law
4 enforcement agency providing this service may charge the requester
5 no more than the actual costs. The issuing court may refer the
6 thumbprint submitted and the notice to appear to the prosecuting
7 attorney for comparison of the thumbprints. When there is no
8 thumbprint or fingerprint on the notice to appear, or when the
9 comparison of thumbprints is inconclusive, the court shall refer
10 the notice to appear or copy thereof back to the issuing agency for
11 further investigation, unless the court finds that referral is not in
12 the interest of justice.

13 (2) Upon initiation of the investigation or comparison process
14 by referral of the court, the court shall continue the case and the
15 speedy trial period shall be tolled for 45 days.

16 (3) Upon receipt of the issuing agency's or prosecuting
17 attorney's response, the court may make a finding of factual
18 innocence pursuant to Section 530.6 if the court determines that
19 there is insufficient evidence that the person cited is the person
20 charged and shall immediately notify the Department of Motor
21 Vehicles of its determination. If the Department of Motor Vehicles
22 determines the citation or citations in question formed the basis
23 of a suspension or revocation of the person's driving privilege, the
24 department shall immediately set aside the action.

25 (4) If the prosecuting attorney or issuing agency fails to respond
26 to a court referral within 45 days, the court shall make a finding
27 of factual innocence pursuant to Section 530.6, unless the court
28 finds that a finding of factual innocence is not in the interest of
29 justice.

30 (5) The citation or notice to appear may be held by the
31 prosecuting attorney or issuing agency for future adjudication
32 should the arrestee who received the citation or notice to appear
33 be found.

34 (l) For purposes of this section, the term "arresting agency"
35 includes any other agency designated by the arresting agency to
36 provide booking or fingerprinting services.

37 *SEC. 1.5. Section 853.6 of the Penal Code is amended to read:*

38 853.6. (a) (1) In any case in which a person is arrested for an
39 offense declared to be a misdemeanor, including a violation of any
40 city or county ordinance, and does not demand to be taken before

1 a magistrate, that person shall, instead of being taken before a
2 magistrate, be released according to the procedures set forth ~~by in~~
3 ~~this chapter.~~ *chapter, although nothing prevents an officer from*
4 *first booking an arrestee pursuant to subdivision (g).* If the person
5 is released, the officer or his or her superior shall prepare in
6 duplicate a written notice to appear in court, containing the name
7 and address of the person, the offense charged, and the time when,
8 and place where, the person shall appear in court. If, pursuant to
9 subdivision (i), the person is not released prior to being booked
10 and the officer in charge of the booking or his or her superior
11 determines that the person should be released, the officer or his or
12 her superior shall prepare a written notice to appear in a court.

13 ~~In~~

14 (2) *In any case in which a person is arrested for a misdemeanor*
15 *violation of a protective court order involving domestic violence,*
16 *as defined in subdivision (b) of Section 13700, or arrested pursuant*
17 *to a policy, as described in Section 13701, the person shall be taken*
18 *before a magistrate instead of being released according to the*
19 *procedures set forth in this chapter, unless the arresting officer*
20 *determines that there is not a reasonable likelihood that the offense*
21 *will continue or resume or that the safety of persons or property*
22 *would be imminently endangered by release of the person arrested.*
23 *Prior to adopting these provisions, each city, county, or city and*
24 *county shall develop a protocol to assist officers to determine when*
25 *arrest and release is appropriate, rather than taking the arrested*
26 *person before a magistrate. The county shall establish a committee*
27 *to develop the protocol, consisting of, at a minimum, the police*
28 *chief or county sheriff within the jurisdiction, the district attorney,*
29 *county counsel, city attorney, representatives from domestic*
30 *violence shelters, domestic violence councils, and other relevant*
31 *community agencies.*

32 (3) *This subdivision shall not apply to the crimes specified in*
33 *Section 1270.1, including crimes defined in each of the following:*

34 (A) *Paragraph (1) of subdivision (e) of Section 243.*

35 (B) *Section 273.5.*

36 (C) *Section 273.6, if the detained person made threats to kill or*
37 *harm, has engaged in violence against, or has gone to the residence*
38 *or workplace of, the protected party.*

39 (D) *Section 646.9.*

40 ~~Nothing~~

1 (4) *Nothing* in this subdivision shall be construed to affect a
2 defendant's ability to be released on bail or on his or her own
3 ~~recognizance~~; *recognizance, except as specified in Section 1270.1.*

4 (b) Unless waived by the person, the time specified in the notice
5 to appear shall be at least 10 days after arrest if the duplicate notice
6 is to be filed by the officer with the magistrate.

7 (c) The place specified in the notice shall be the court of the
8 magistrate before whom the person would be taken if the
9 requirement of taking an arrested person before a magistrate were
10 complied with, or shall be an officer authorized by that court to
11 receive a deposit of bail.

12 (d) The officer shall deliver one copy of the notice to appear to
13 the arrested person, and the arrested person, in order to secure
14 release, shall give his or her written promise to appear in court as
15 specified in the notice by signing the duplicate notice which shall
16 be retained by the officer, and the officer may require the arrested
17 person, if he or she has no satisfactory identification, to place a
18 right thumbprint, or a left thumbprint or fingerprint if the person
19 has a missing or disfigured right thumb, on the notice to appear.
20 Except for law enforcement purposes relating to the identity of the
21 arrestee, no person or entity may sell, give away, allow the
22 distribution of, include in a database, or create a database with,
23 this print. Upon the signing of the duplicate notice, the arresting
24 officer shall immediately release the person arrested from custody.

25 (e) The officer shall, as soon as practicable, file the duplicate
26 notice, as follows:

27 (1) It shall be filed with the magistrate if the offense charged is
28 an infraction.

29 (2) It shall be filed with the magistrate if the prosecuting attorney
30 has previously directed the officer to do so.

31 (3) The duplicate notice and underlying police reports in support
32 of the charge or charges shall be filed with the prosecuting attorney
33 in cases other than those specified in paragraphs (1) and (2).

34 If the duplicate notice is filed with the prosecuting attorney, he
35 or she, within his or her discretion, may initiate prosecution by
36 filing the notice or a formal complaint with the magistrate specified
37 in the duplicate notice within 25 days from the time of arrest. If
38 the prosecution is not to be initiated, the prosecutor shall send
39 notice to the person arrested at the address on the notice to appear.
40 The failure by the prosecutor to file the notice or formal complaint

1 within 25 days of the time of the arrest shall not bar further
2 prosecution of the misdemeanor charged in the notice to appear.
3 However, any further prosecution shall be preceded by a new and
4 separate citation or an arrest warrant.

5 Upon the filing of the notice with the magistrate by the officer,
6 or the filing of the notice or formal complaint by the prosecutor,
7 the magistrate may fix the amount of bail that in his or her
8 judgment, in accordance with Section 1275, is reasonable and
9 sufficient for the appearance of the defendant and shall endorse
10 upon the notice a statement signed by him or her in the form set
11 forth in Section 815a. The defendant may, prior to the date upon
12 which he or she promised to appear in court, deposit with the
13 magistrate the amount of bail set by the magistrate. At the time
14 the case is called for arraignment before the magistrate, if the
15 defendant does not appear, either in person or by counsel, the
16 magistrate may declare the bail forfeited, and may, in his or her
17 discretion, order that no further proceedings shall be had in the
18 case, unless the defendant has been charged with a violation of
19 Section 374.3 or 374.7 of this code or of Section 11357, 11360,
20 or 13002 of the Health and Safety Code, or a violation punishable
21 under Section 5008.7 of the Public Resources Code, and he or she
22 has previously been convicted of a violation of that section or a
23 violation that is punishable under that section, except in cases
24 where the magistrate finds that undue hardship will be imposed
25 upon the defendant by requiring him or her to appear, the
26 magistrate may declare the bail forfeited and order that no further
27 proceedings be had in the case.

28 Upon the making of the order that no further proceedings be
29 had, all sums deposited as bail shall immediately be paid into the
30 county treasury for distribution pursuant to Section 1463.

31 (f) No warrant shall be issued for the arrest of a person who has
32 given a written promise to appear in court, unless and until he or
33 she has violated that promise or has failed to deposit bail, to appear
34 for arraignment, trial, or judgment or to comply with the terms
35 and provisions of the judgment, as required by law.

36 (g) The officer may book the arrested person *at the scene or at*
37 *the arresting agency* prior to release or indicate on the citation that
38 the arrested person shall appear at the arresting agency to be booked
39 or indicate on the citation that the arrested person shall appear at
40 the arresting agency to be fingerprinted prior to the date the arrested

1 person appears in court. If it is indicated on the citation that the
2 arrested person shall be booked or fingerprinted prior to the date
3 of the person's court appearance, the arresting agency at the time
4 of booking or fingerprinting shall provide the arrested person with
5 verification of the booking or fingerprinting by making an entry
6 on the citation. If it is indicated on the citation that the arrested
7 person is to be booked or fingerprinted, the magistrate, judge, or
8 court shall, before the proceedings begin, order the defendant to
9 provide verification that he or she was booked or fingerprinted by
10 the arresting agency. If the defendant cannot produce the
11 verification, the magistrate, judge, or court shall require that the
12 defendant be booked or fingerprinted by the arresting agency before
13 the next court appearance, and that the defendant provide the
14 verification at the next court appearance unless both parties
15 stipulate that booking or fingerprinting is not necessary.

16 (h) A peace officer shall use the written notice to appear
17 procedure set forth in this section for any misdemeanor offense in
18 which the officer has arrested a person without a warrant pursuant
19 to Section 836 or in which he or she has taken custody of a person
20 pursuant to Section 847.

21 (i) Whenever any person is arrested by a peace officer for a
22 misdemeanor, that person shall be released according to the
23 procedures set forth by this chapter unless one of the following is
24 a reason for nonrelease, in which case the arresting officer may
25 release the person, *except as provided in subdivision (a)*, or the
26 arresting officer shall indicate, on a form to be established by his
27 or her employing law enforcement agency, which of the following
28 was a reason for the nonrelease:

29 (1) The person arrested was so intoxicated that he or she could
30 have been a danger to himself or herself or to others.

31 (2) The person arrested required medical examination or medical
32 care or was otherwise unable to care for his or her own safety.

33 (3) The person was arrested under one or more of the
34 circumstances listed in Sections 40302 and 40303 of the Vehicle
35 Code.

36 (4) There were one or more outstanding arrest warrants for the
37 person.

38 (5) The person could not provide satisfactory evidence of
39 personal identification.

1 (6) The prosecution of the offense or offenses for which the
2 person was arrested, or the prosecution of any other offense or
3 offenses, would be jeopardized by immediate release of the person
4 arrested.

5 (7) There was a reasonable likelihood that the offense or offenses
6 would continue or resume, or that the safety of persons or property
7 would be imminently endangered by release of the person arrested.

8 (8) The person arrested demanded to be taken before a
9 magistrate or refused to sign the notice to appear.

10 (9) There is reason to believe that the person would not appear
11 at the time and place specified in the notice. The basis for this
12 determination shall be specifically stated.

13 (10) *The person was subject to Section 1270.1.*

14 The form shall be filed with the arresting agency as soon as
15 practicable and shall be made available to any party having custody
16 of the arrested person, subsequent to the arresting officer, and to
17 any person authorized by law to release him or her from custody
18 before trial.

19 (j) Once the arresting officer has prepared the written notice to
20 appear and has delivered a copy to the person arrested, the officer
21 shall deliver the remaining original and all copies as provided by
22 subdivision (e).

23 Any person, including the arresting officer and any member of
24 the officer's department or agency, or any peace officer, who alters,
25 conceals, modifies, nullifies, or destroys, or causes to be altered,
26 concealed, modified, nullified, or destroyed, the face side of the
27 remaining original or any copy of a citation that was retained by
28 the officer, for any reason, before it is filed with the magistrate or
29 with a person authorized by the magistrate to receive deposit of
30 bail, is guilty of a misdemeanor.

31 If, after an arrested person has signed and received a copy of a
32 notice to appear, the arresting officer determines that, in the interest
33 of justice, the citation or notice should be dismissed, the arresting
34 agency may recommend, in writing, to the magistrate that the
35 charges be dismissed. The recommendation shall cite the reasons
36 for the recommendation and shall be filed with the court.

37 If the magistrate makes a finding that there are grounds for
38 dismissal, the finding shall be entered in the record and the charges
39 dismissed.

1 Under no circumstances shall a personal relationship with any
2 officer, public official, or law enforcement agency be grounds for
3 dismissal.

4 (k) (1) A person contesting a charge by claiming under penalty
5 of perjury not to be the person issued the notice to appear may
6 choose to submit a right thumbprint, or a left thumbprint if the
7 person has a missing or disfigured right thumb, to the issuing court
8 through his or her local law enforcement agency for comparison
9 with the one placed on the notice to appear. A local law
10 enforcement agency providing this service may charge the requester
11 no more than the actual costs. The issuing court may refer the
12 thumbprint submitted and the notice to appear to the prosecuting
13 attorney for comparison of the thumbprints. When there is no
14 thumbprint or fingerprint on the notice to appear, or when the
15 comparison of thumbprints is inconclusive, the court shall refer
16 the notice to appear or copy thereof back to the issuing agency for
17 further investigation, unless the court finds that referral is not in
18 the interest of justice.

19 (2) Upon initiation of the investigation or comparison process
20 by referral of the court, the court shall continue the case and the
21 speedy trial period shall be tolled for 45 days.

22 (3) Upon receipt of the issuing agency's or prosecuting
23 attorney's response, the court may make a finding of factual
24 innocence pursuant to Section 530.6 if the court determines that
25 there is insufficient evidence that the person cited is the person
26 charged and shall immediately notify the Department of Motor
27 Vehicles of its determination. If the Department of Motor Vehicles
28 determines the citation or citations in question formed the basis
29 of a suspension or revocation of the person's driving privilege, the
30 department shall immediately set aside the action.

31 (4) If the prosecuting attorney or issuing agency fails to respond
32 to a court referral within 45 days, the court shall make a finding
33 of factual innocence pursuant to Section 530.6, unless the court
34 finds that a finding of factual innocence is not in the interest of
35 justice.

36 (5) The citation or notice to appear may be held by the
37 prosecuting attorney or issuing agency for future adjudication
38 should the arrestee who received the citation or notice to appear
39 be found.

1 (l) For purposes of this section, the term “arresting agency”
2 includes any other agency designated by the arresting agency to
3 provide booking or fingerprinting services.

4 *SEC. 2. Section 1.5 of this bill incorporates amendments to*
5 *Section 853.6 of the Penal Code proposed by both this bill and AB*
6 *688. It shall only become operative if (1) both bills are enacted*
7 *and become effective on or before January 1, 2010, (2) each bill*
8 *amends Section 853.6 of the Penal Code, and (3) this bill is enacted*
9 *after AB 688, in which case Section 1 of this bill shall not become*
10 *operative.*