



**Judicial Council of California**  
**ADMINISTRATIVE OFFICE OF THE COURTS**

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August 13, 2013

Hon. Tom Ammiano  
Member of Assembly  
State Capitol, Room 3146  
Sacramento, California 95814

Subject: AB 604 (Ammiano), as amended August 13, 2013 – Oppose language for jury instruction

Dear Assembly Member Ammiano:

The Judicial Council regrettably opposes the provisions of AB 604 that would require courts to admonish juries in a manner “substantially similar” to the language expressly set forth in the bill.

The council strongly believes that the responsibility for drafting jury instructions should be left with the judicial branch. Instructing a jury is a core function of trial courts, and there are many practical reasons why that responsibility should belong to the courts. Issuing jury instructions is inextricably linked with the exercise of judicial discretion in giving instructions that are understandable to a jury and tailored to the particular facts and circumstances of each individual case. Limiting this discretion, as AB 604 seeks to do, may impair judges’ ability to quickly adapt statutorily mandated instructional language to evolving case law. While awaiting a legislative fix to the statute to catch up with this new law, the innocent could be convicted and the guilty set free.

The courts are guided by the Judicial Council Criminal Jury Instructions, CALCRIM. Rule 2.1050 of the California Rules of Court expressly provides that those instructions may be

modified by a judge if another instruction “would more accurately state the law and be understood by jurors.” Not only is it clear that a judge may modify CALCRIM instructions as needed, they are prepared by a neutral, balanced committee of experts. The CALCRIM committee is composed of experienced trial judges, appellate court justices, public defenders, private defense counsel, and professors of linguistics, who work collaboratively to create legally accurate and easily understood instructions.

The CALCRIM committee regularly updates, supplements, and maintains them as needed. The committee’s rigorous process includes five separate levels of review, including circulating proposed amendments for public comment. All criminal law practitioners, including both prosecutors and defense attorneys, are encouraged to submit their comments and suggestions. Thus the CALCRIM committee ensures that the jury instructions are accurate, balanced and understandable to the average juror. The council believes this process is essential for the fair administration of justice.

For the reasons stated above, the Judicial Council regrettably must oppose the provisions in AB 604 that would require courts to admonish a jury in a manner “substantially similar” to language set forth in the bill.

Sincerely,

A handwritten signature in cursive script, reading "Sharon Reilly".

Sharon Reilly  
Senior Attorney

SR/yc-s

cc: Ms. Kimberly Horiuchi, ACLU

Ms. Liberty Sanchez, California Public Defenders Association

Ms. June Clark, Deputy Legislative Secretary, Office of the Governor