

JUDICIAL COUNCIL OF CALIFORNIA

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INVITATION TO COMMENT

LEG-__

Title	Action Requested
Judicial Council–Sponsored Legislation: Consistent Fee Provisions with Electronic Filing and Service; Signatures on Electronically Filed Documents Not Signed Under Penalty of Perjury	Review and submit comments by June 7, 2019
Proposed Rules, Forms, Standards, or Statutes Amend Code Civ. Proc., § 1010.6	Proposed Effective Date January 1, 2021
Proposed by Information Technology Advisory Committee Hon. Sheila F. Hanson, Chair	Contact Andrea L. Jaramillo, 916-263-0991 andrea.jaramillo@jud.ca.gov

Executive Summary and Origin

The Information Technology Advisory Committee recommends the Judicial Council sponsor legislation to amend Code of Civil Procedure section 1010.6, which governs electronic filing and service in civil matters. The purpose of the proposal would be twofold: (1) to create consistency in the fee provisions by allowing courts to recover no more than their actual costs regardless of whether electronic filing and service is permitted by local rule, required by court order, or required by local rule; and (2) to account for signatures made not under penalty of perjury by persons other than the filer. The proposal originated with Judicial Council staff.

Background

Cost recovery

Code of Civil Procedure section 1010.6 (§ 1010.6) provides statutory authority for electronic filing and service. The trial courts may adopt local rules permitting or requiring electronic filing subject to certain conditions. (§ 1010.6(b), (d).) A court may also require electronic filing and service by court order in certain types of cases if it has adopted local rules conforming to the statutory conditions for permissive electronic filing. (§ 1010.6(c).) When a court permits electronic filing by local rule, it may charge a fee for payment processing not to exceed the costs of processing a payment. (§ 1010.6(b)(7).) If a court permits electronic filing by local rule, it may also require electronic filing and service by court order, but the provision on ordering

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electronic filing and service does not directly address costs. (§ 1010.6(c).) A court may also require electronic filing and service by local rule, and in that case, it may “charge fees of no more than the actual cost” except in instances where the court deems waiving the fees appropriate. (§ 1010.6(d).) Accordingly, what costs a court can recover vary depending on whether electronic filing and service is permitted by local rule, required by court order, or required by local rule.

Documents not signed under penalty of perjury

Under section 1010.6, “When a document to be filed requires the signature of any person, not under penalty of perjury, the document shall be deemed to have been signed by the person who filed the document electronically.” (§ 1010.6(b)(2)(A).) While this provision initially states that it applies when a signature of *any* person is required, the scope is limited by the language “the document shall be deemed to have been signed *by the person who filed.*” As such, the provision does not account for a situation where someone signs a document not under penalty of perjury, the document is to be filed electronically, and the filer and signer are different people.

The Proposal

The proposal would create consistency in the fee provisions by allowing courts to recover no more than their actual costs regardless of whether electronic filing and service is permitted by local rule, required by court order, or required by local rule. The proposal would add a provision to account for signatures made not under penalty of perjury by persons other than the filer.

Cost recovery provisions

The provisions for electronic filing and service permitted by local rule are found in subdivision (b) of section 1010.6 while the provisions for electronic filing and service required by court order and required by local rule are found in subdivisions (c) and (d), respectively. The proposed amendments would add a new subdivision (b)(8) to allow courts to recover actual costs when electronic filing and service is permitted by local rule. The language of proposed subdivision (b)(8) is taken from existing subdivision (d). Because subdivision (d) is subject to the requirements and conditions of subdivision (b), the proposal removes the existing language from subdivision (d) that would be identical to the new language in proposed subdivision (b)(8).

The proposal also strikes “the court” from the existing language in subdivision (b)(7), which covers recovery of payment processing fees. Because the language in subdivision (b)(8) is broad enough to encompass payment processing fees, it would not be necessary to keep “the court” in subdivision (b)(7). Finally, the proposal adds to subdivision (c) that it is subject to the requirements and conditions of subdivision (b) and subdivision (f), which cover rulemaking for mandatory electronic filing. This is the same as language in existing subdivision (d) and makes subdivisions (c) and (d) more consistent.

Document signing provisions

The proposed amendment would preserve the status quo when the filer is the signer, but also account for documents not signed under penalty of perjury when the filer and signer are different

people. The amendment would leave the specific processes for signatures not under penalty of perjury when the filer and signer are different people to be described in a rule of court just as is the case for documents electronically signed under penalty of perjury.

Alternatives Considered

Cost recovery provisions

The committee considered maintaining the status quo, which would continue different cost recovery provisions depending on whether electronic filing and service is permitted by local rule, required by court order, or required by local rule. The committee considered it preferable to make the cost recovery provisions consistent and allow courts to recover no more than actual costs. This may encourage more courts to offer electronic filing or expand the scope of their offerings. Currently, only about half of the trial courts provide electronic filing and service either directly, through vendor services, or a combination of vendor and in-house services. The committee is seeking specific comments from the courts on this as well as comments on the impact on self-represented or indigent litigants.

Document signing provisions

The committee considered addressing this issue only in the rules of court. However, because section 1010.6 states that it governs the signature of *any person* not under penalty of perjury, but then specifically narrows to only address the filer, amending section 1010.6 would ensure there would be no potential inconsistency between the controlling statute and rules of court.

Fiscal and Operational Impacts

Courts can already recover actual costs when electronic filing and service is *required* by local rule. The main fiscal impacts therefore would be with electronic filing and service *permitted* by local rule. Where courts already permit electronic filing and service by local rule, the proposal may reduce costs for courts because those costs would be recoverable. The proposal may also make it more feasible for the court to expand the scope of electronic filing and service. Where courts already permit electronic filing and service by local rule, there may be an increase in costs to litigants already using permissive electronic filing because costs are currently limited to recovery of payment processing fees. Where courts do not currently permit electronic filing and service, the proposal may make it more feasible for more courts to do so. Because electronic filing and service permitted by local rule is optional, litigants would still have the choice to file in paper. The committee seeks specific comments from the courts and public on fiscal and operational impacts.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- What impact would the proposal have on self-represented litigants and their access to permissive electronic filing and service?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- If the court does not currently have local rules permitting electronic filing and service, would the proposal make it more feasible for the court to do so?
- If the court currently has local rules permitting electronic filing and service, would the proposal help the court to improve or expand electronic filing and service?

Attachments and Links

1. Code Civ. Proc., § 1010.6, at pages 5–7
2. Link A: Code Civ. Proc., § 1010.6,
https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1010.6.&lawCode=CCP

Section 1010.6 of the Code of Civil Procedure would be amended, effective January 1, 2021, to read:

1 **§ 1010.6**

2
3 (a) * * *

4
5 (b) A trial court may adopt local rules permitting electronic filing of documents, subject to rules
6 adopted pursuant to subdivision (e) and the following conditions:

7
8 (1) A document that is filed electronically shall have the same legal effect as an original paper
9 document.

10
11 (2)(A) When a document to be filed requires the signature of any person, not under penalty of
12 perjury, the document shall be deemed to have been signed by ~~the~~ that person who filed the
13 ~~document electronically.~~ if filed electronically and if either of the following conditions is
14 satisfied:

15
16 (i) The filer is the signer.

17
18 (ii) The person has signed the document pursuant to the procedure set forth in a rule of court.

19
20 (B) When a document to be filed requires the signature, under penalty of perjury, of any person,
21 the document shall be deemed to have been signed by that person if filed electronically and if
22 either of the following conditions is satisfied:

23
24 (i) The person has signed a printed form of the document before, or on the same day as, the date
25 of filing. The attorney or other person filing the document represents, by the act of filing, that the
26 declarant has complied with this section. The attorney or other person filing the document shall
27 maintain the printed form of the document bearing the original signature until final disposition of
28 the case, as defined in subdivision (c) of Section 68151 of the Government Code, and make it
29 available for review and copying upon the request of the court or any party to the action or
30 proceeding in which it is filed.

31
32 (ii) The person has signed the document using a computer or other technology pursuant to the
33 procedure set forth in a rule of court adopted by the Judicial Council by January 1, 2019.

34
35 (3) Any document received electronically by the court between 12:00 a.m. and 11:59:59 p.m. on
36 a court day shall be deemed filed on that court day. Any document that is received electronically
37 on a noncourt day shall be deemed filed on the next court day.

38
39 (4) The court receiving a document filed electronically shall issue a confirmation that the
40 document has been received and filed. The confirmation shall serve as proof that the document
41 has been filed.

1
2 (5) Upon electronic filing of a complaint, petition, or other document that must be served with a
3 summons, a trial court, upon request of the party filing the action, shall issue a summons with the
4 court seal and the case number. The court shall keep the summons in its records and may
5 electronically transmit a copy of the summons to the requesting party. Personal service of a
6 printed form of the electronic summons shall have the same legal effect as personal service of an
7 original summons. If a trial court plans to electronically transmit a summons to the party filing a
8 complaint, the court shall immediately, upon receipt of the complaint, notify the attorney or party
9 that a summons will be electronically transmitted to the electronic address given by the person
10 filing the complaint.

11
12 (6) The court shall permit a party or attorney to file an application for waiver of court fees and
13 costs, in lieu of requiring the payment of the filing fee, as part of the process involving the
14 electronic filing of a document. The court shall consider and determine the application in
15 accordance with Article 6 (commencing with Section 68630) of Chapter 2 of Title 8 of the
16 Government Code and shall not require the party or attorney to submit any documentation other
17 than that set forth in Article 6 (commencing with Section 68630) of Chapter 2 of Title 8 of the
18 Government Code. Nothing in this section shall require the court to waive a filing fee that is not
19 otherwise waivable.

20
21 (7) A fee, if any, charged by ~~the court~~, an electronic filing manager, or an electronic filing
22 service provider to process a payment for filing fees and other court fees shall not exceed the
23 costs incurred in processing the payment.

24
25 (8) The court may charge fees of no more than the actual cost of the electronic filing and service
26 of the documents. The court shall waive any fees charged if the court deems a waiver
27 appropriate, including in instances when a party has received a fee waiver.

28
29 (c) If a trial court adopts rules conforming to subdivision (b), it may provide by order, subject to
30 the requirements and conditions stated in subdivision (b) and the rules adopted by the Judicial
31 Council under subdivision (f), that all parties to an action file and serve documents electronically
32 in a class action, a consolidated action, a group of actions, a coordinated action, or an action that
33 is deemed complex under Judicial Council rules, provided that the trial court's order does not
34 cause undue hardship or significant prejudice to any party in the action.

35
36 (d) A trial court may, by local rule, require electronic filing and service in civil actions, subject to
37 the requirements and conditions stated in subdivision (b), the rules adopted by the Judicial
38 Council under subdivision (f), and the following conditions:

39
40 (1) The court shall have the ability to maintain the official court record in electronic format for
41 all cases where electronic filing is required.
42

1 (2) The court and the parties shall have access to more than one electronic filing service provider
2 capable of electronically filing documents with the court or to electronic filing access directly
3 through the court. ~~The court may charge fees of no more than the actual cost of the electronic~~
4 ~~filing and service of the documents.~~ Any fees charged by an electronic filing service provider
5 shall be reasonable. ~~The court, an~~ An electronic filing manager, or an electronic filing service
6 provider shall waive any fees charged if the court deems a waiver appropriate, including in
7 instances where a party has received a fee waiver.

8
9 (3) The court shall have a procedure for the filing of nonelectronic documents in order to prevent
10 the program from causing undue hardship or significant prejudice to any party in an action,
11 including, but not limited to, unrepresented parties. The Judicial Council shall make a form
12 available to allow a party to seek an exemption from mandatory electronic filing and service on
13 the grounds provided in this paragraph.

14
15 (4) Unrepresented persons are exempt from mandatory electronic filing and service.

16
17 (5) Until January 1, 2021, a local child support agency, as defined in subdivision (h) of Section
18 17000 of the Family Code, is exempt from a trial court's mandatory electronic filing and service
19 requirements, unless the Department of Child Support Services and the local child support
20 agency determine it has the capacity and functionality to comply with the trial court's mandatory
21 electronic filing and service requirements.

22
23 (e) The Judicial Council shall adopt uniform rules for the electronic filing and service of
24 documents in the trial courts of the state, which shall include statewide policies on vendor
25 contracts, privacy, and access to public records, and rules relating to the integrity of electronic
26 service. These rules shall conform to the conditions set forth in this section, as amended from
27 time to time.

28
29 (f) The Judicial Council shall adopt uniform rules to permit the mandatory electronic filing and
30 service of documents for specified civil actions in the trial courts of the state, which shall include
31 statewide policies on vendor contracts, privacy, access to public records, unrepresented parties,
32 parties with fee waivers, hardships, reasonable exceptions to electronic filing, and rules relating
33 to the integrity of electronic service. These rules shall conform to the conditions set forth in this
34 section, as amended from time to time.

35
36 (g) * * *

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INVITATION TO COMMENT

LEG-__

Title	Action Requested
Judicial Council–Sponsored Legislation: Electronic Delivery of Documents Currently Required to Be Mailed Following Conviction	Review and submit comments by June 7, 2019
Proposed Rules, Forms, Standards, or Statutes Amend Pen. Code, § 1203.01	Proposed Effective Date January 1, 2021
Proposed by Information Technology Advisory Committee Hon. Sheila F. Hanson, Chair	Contact Andrea L. Jaramillo, 916-263-0991 andrea.jaramillo@jud.ca.gov

Executive Summary and Origin

The Information Technology Advisory Committee (ITAC) recommends the Judicial Council sponsor legislation to amend Penal Code section 1203.01 to allow for electronic delivery of documents currently required to be mailed following conviction. The proposal originated with a recommendation of the Judicial Council Data Exchange Working Group, which is made up of court participants and justice partners and is working to develop standardized data exchanges.

Background

Under Penal Code section 1203.01, once judgment is pronounced in a criminal case, “the judge and the district attorney, respectively, may cause to be filed with the clerk of the court a brief statement of their views respecting the person convicted or sentenced and the crime committed, together with any reports the probation officer may have filed relative to the prisoner.” (Pen. Code, § 1203.01(a).) Counsel for the defendant and the law enforcement agency that investigated the case may also file statements with the clerk. (*Ibid.*) The clerk is then required to mail copies of the statements and reports to (1) the attorney for the defendant; and (2) to the defendant, in care of the California Department of Corrections and Rehabilitation (CDCR). (*Ibid.*) The attorney for the defendant may also file a statement and, in that event, the clerk is required to mail a copy of that statement to the district attorney. (*Ibid.*) The clerk is also required to mail certified copies of all statements and reports addressed to the CDCR at the prison or other institution to which the person convicted is delivered. (*Ibid.*)

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In addition, the clerk is also required to mail to the prison or other institution to which the person convicted is delivered, copies of the charging documents and waiver and plea forms, if any. (Pen. Code, § 1203.01(b)(1)–(2).) Finally, when the sentence is death or of an indeterminate term, or upon request of CDCR, the inmate, or the inmate’s counsel, the clerk is required to mail the transcript of the proceedings at the time of sentencing, and, if applicable, the transcript of the proceedings at the time of the defendant’s guilty or nolo contendere plea. (*Ibid.*)

There is no option for the clerk to deliver the documents or data contained in the documents described in Penal Code section 1203.01 by electronic means rather than by mail.

The Proposal

The proposal would add a new subdivision to Penal Code section 1203.01 to create an option for electronic delivery of the material currently required to be mailed. Under the proposal, if a recipient consents to electronic delivery, the court may deliver the documents electronically rather than by mail. Accordingly, providing electronic delivery would be an option, though not a requirement for the court, and likewise, receiving documents electronically would be an option for the recipient.

A main concern of the committee with electronic delivery is that an incarcerated recipient may have unreliable access to electronic resources even if they had initially consented to electronic delivery rather than mail. To address this concern, the proposal includes a provision that would still require the court to mail the materials to an incarcerated recipient upon request of that recipient or their counsel even if they had had consented to electronic delivery.

The proposal is intended to reduce reliance on paper and improve efficiency by providing an electronic option where paper is currently required. The proposal advances the judicial branch goal of promoting rule and legislative changes that facilitate the use of technology in the courts. (Jud. Council of Cal., *Strategic Plan for Technology 2019–2022* (2018), pp. 14–15, <https://www.courts.ca.gov/documents/jctc-Court-Technology-Strategic-Plan.pdf> (as of Jan. 23, 2019).) In particular, it advances an objective of the goal to “[e]nsure current rules and legislation do not inhibit the use of technology solutions.” (*Id.* at p. 14.)

Alternatives Considered

ITAC considered alternatives for the terminology to use in the new subdivision to refer to the paper documents that Penal Code section 1203.01 currently requires to be mailed. Because data exchanges may not require the transmission of an electronic version of a paper document (e.g., a PDF), the term “document” alone seemed insufficient. The Data Exchange Working Group suggested “information” instead because the information contained in the documents is what is important. Because “information” has a particular meaning as an accusatory pleading in criminal law, the committee decided to use “documents, or the data contained in the documents” instead to convey that the document itself is not necessarily required.

The Data Exchange Working Group had suggested “the clerk of the court may deliver the information described in subdivisions (a) and (b) by electronic means in a mutually agreeable format . . .” but the committee did not include the “mutually agreeable format” language since the proposed new subdivision is already predicated on consent. If the recipient did not agree with the format the court had available, the recipient could simply not consent to electronic delivery.

To address the committee’s concern about incarcerated recipients having unreliable access to electronic resources to receive an electronic delivery from the court, the committee considered three options: (1) incarcerated recipients would continue to receive mail-only documents, but other recipients could opt-in for electronic delivery; (2) incarcerated recipients could opt-in for electronic delivery, but would receive mail-only documents as well; or (3) incarcerated recipients could opt-in for electronic delivery, but could still receive mailed documents upon request. ITAC chose the third option for the proposal because it removes all reliance on paper when recipients opt-in, but still ensures convicted persons can later obtain mailed paper copies if they request them. The committee believes that this option has the best balance of advancing the use of technology while mitigating against unreliable access to electronic resources that persons convicted may experience even if they had initially opted-in for electronic delivery.

Fiscal and Operational Impacts

The proposal does not require the courts to provide electronic delivery nor does it require recipients to opt-in to electronic delivery. As such, courts and recipients that do not have the current capability for electronic delivery should not be impacted. For courts and recipients that do have the capability, electronic delivery should be more efficient than mailing paper.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- The committee considered the following alternatives to the language proposed. Are either of these alternatives preferable to the proposed language, or is the proposed language preferable? Why?
 - Alternative 1: (c)(1) With the consent of the recipient, the clerk of the court may deliver the documents, or the data contained in the documents, described in subdivisions (a) and (b) by electronic means rather than by mail.

(2) Notwithstanding paragraph (1), the person convicted is not eligible to receive electronic delivery of the documents, or the data contained in the documents, described in subdivisions (a) and (b), and the clerk of the court must mail with postage prepaid, to the prison or other institution to which the person convicted is delivered, copies of the documents described in subdivisions (a) and (b).

- Alternative 2: (c)(1) With the consent of the recipient, the clerk of the court may deliver the documents, or the data contained in the documents, described in subdivisions (a) and (b) by electronic means rather than by mail.

(2) Notwithstanding paragraph (1), the clerk of the court must also mail with postage prepaid, to the prison or other institution to which the person convicted is delivered, copies of the documents described in subdivisions (a) and (b).

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- Does the proposal raise any concerns on means of transferring data? If so, should those concerns be addressed in statute or in some other way?
- Does the proposal raise any concerns on data being sent back to the court by the recipient (e.g., if the court delivers an electronic copy of a document by e-mail to a convicted person and the convicted person replies to that e-mail in an attempt to communicate with the court)? If so, should those concerns be addressed in statute or in some other way?
- The proposed amendment does not prescribe any particular method for how consent from the recipient would be documented. Is this something that should be addressed in statute, a rule of court, or in some other way?

- The proposed amendment does not address what the court should do if someone consents to electronic delivery, but when the court electronically transmits the document, it is undeliverable (e.g., the court emails the documents to an address the recipient provided, but then gets a message back that the email was undeliverable). Is this something that should be addressed in statute, a rule of court, or in some other way?

Attachments and Links

1. Pen. Code, § 1203.01, pages 6–7
2. Link A: Pen. Code, § 1203.01,
http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=PEN§ionNum=1203.01

Section 1203.01 of the Penal Code would be amended, effective January 1, 2021, to read:

1 **§ 1203.01**

2

3 (a) Immediately after judgment has been pronounced, the judge and the district attorney,
4 respectively, may cause to be filed with the clerk of the court a brief statement of their
5 views respecting the person convicted or sentenced and the crime committed, together
6 with any reports the probation officer may have filed relative to the prisoner. The judge
7 and district attorney shall cause those statements to be filed if no probation officer's
8 report has been filed. The attorney for the defendant and the law enforcement agency that
9 investigated the case may likewise file with the clerk of the court statements of their
10 views respecting the defendant and the crime of which he or she was convicted.

11 Immediately after the filing of those statements and reports, the clerk of the court shall
12 mail a copy thereof, certified by that clerk, with postage prepaid, addressed to the
13 Department of Corrections and Rehabilitation at the prison or other institution to which
14 the person convicted is delivered. The clerk shall also mail a copy of any statement
15 submitted by the court, district attorney, or law enforcement agency, pursuant to this
16 section, with postage prepaid, addressed to the attorney for the defendant, if any, and to
17 the defendant, in care of the Department of Corrections and Rehabilitation, and a copy of
18 any statement submitted by the attorney for the defendant, with postage prepaid, shall be
19 mailed to the district attorney.

20

21 (b)(1) In all cases in which the judgment imposed includes a sentence of death or an
22 indeterminate term with or without the possibility of parole, the clerk shall, within 60
23 days after judgment has been pronounced, mail with postage prepaid, to the prison or
24 other institution to which the person convicted is delivered, a copy of the charging
25 documents, a copy of waiver and plea forms, if any, the transcript of the proceedings at
26 the time of the defendant's guilty or nolo contendere plea, if the defendant pleaded guilty
27 or nolo contendere, and the transcript of the proceedings at the time of sentencing.

28

29 (2) In all other cases not described in paragraph (1), the clerk shall mail with postage
30 prepaid, to the prison or other institution to which the person convicted is delivered, a
31 copy of the charging documents, a copy of the waiver and plea forms, if any, and upon
32 written request by the Department of Corrections and Rehabilitation or by an inmate, or
33 by his or her counsel, for, among other purposes on a particular case, appeals, review of
34 custody credits and release dates, and restitution orders, the transcript of the proceedings
35 at the time of the defendant's guilty or nolo contendere plea, if the defendant pleaded
36 guilty or nolo contendere, and the transcript of the proceedings at the time of sentencing.

37

38 (c)(1) With the consent of the recipient, the clerk of the court may deliver the documents,
39 or the data contained in the documents, described in subdivisions (a) and (b) by electronic
40 means rather than by mail.

41

1 (2) Notwithstanding paragraph (1), upon written request by a person convicted or by his
2 or her counsel, the clerk shall also mail with postage prepaid, to the prison or other
3 institution to which the person convicted is delivered, copies of the documents described
4 in subdivisions (a) and (b).

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INVITATION TO COMMENT

LEG-__

Title	Proposed by
Judicial Council–Sponsored Legislation: Civil Adjudication of Vehicle Code Infractions	Futures Traffic Working Group Hon. Judge Mark S. Borrell, Cochair Hon. Judge Brian L. McCabe, Cochair
Proposed Rules, Forms, Standards, or Statutes	Action Requested
Sponsor Veh. Code, §§ 40650–40732; amend Veh. Code, §§ 13103, 40000.1, 40000.3, 40310, 40902, and 42007, Gov. Code, §§ 69957, 70372, 70373, 76000, 76000.10, 76104.6, and 76104.7, Pen. Code, §§ 19.8, 1209.5, 1269b, 1463.001, 1463.28, 1464, and 1465.8, and Welf. & Inst. Code, §§ 602 and 603.5; repeal Veh. Code, §§ 40518, 40520, and 40903	Review and submit comments by June 7, 2019
	Proposed Effective Date
	January 1, 2022
	Contact
	Jamie Schechter, 415-865-5327 jamie.schechter@jud.ca.gov

Executive Summary and Origin

At the direction of the Chief Justice, the Futures Traffic Working Group was charged with developing a proposal to implement and evaluate a civil model for adjudication of minor vehicle infractions. This proposal includes recommendations for statutory changes as well as appropriate standardized processes to free up court and law enforcement resources and simplify procedures for defendants. The proposal was informed by input from law enforcement, the Department of Motor Vehicles, organizations representing the interests of low-income Californians, and other stakeholders. The working group explored, evaluated, and now recommends options for online processing of all phases for all Vehicle Code infraction violations. This proposal provides an alternative to the current system of criminal adjudication of several million traffic infractions each year.

Background

The impetus behind the Futures Commission’s recommendation to treat minor traffic violations as civil violations—rather than criminal offenses—was threefold: to (1) improve access to justice by developing user-friendly court processes; (2) increase court efficiency; and (3) create a system that allows for online management and adjudication of cases. The adjudication of minor traffic violations represents a major part of what criminal courts do and affects a large and

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diverse group of Californians. More than three million tickets for traffic violations are filed each year, representing about two-thirds of the criminal caseload of the courts. Among the most significant impacts of the current criminal adjudication system are the consequences for individuals who do not come to court. Because minor traffic violations are treated as criminal offenses, the reality is that the defendant must come to court, or otherwise deal with their ticket, by the court date. If the defendant fails to appear or take care of the ticket, the consequences are serious. The ticket that gets signed at the roadside *is a promise to appear in court*. The law provides a number of ways a court can deal with someone who does not keep that promise, including issuing an arrest warrant, adding a penalty of up to \$300 onto the person's case in lieu of an arrest warrant, or suspending the person's driving privilege until they appear or otherwise satisfy the court. A defendant may also be charged with a new infraction or misdemeanor for failure to come to court as promised.

The burdens of the current process fall particularly hard on individuals with limited resources. In some cases, the fine for not coming to court on time could be more than the ticket itself. And the loss of a driver's license can have significant repercussions on work, family, and education opportunities. This proposal will change that reality. Viewing all Vehicle Code infraction violations as civil matters offers a different mindset and a fairer process with less serious consequences. In civil cases, if a defendant fails to come to court, he or she is not punished. The case is treated as if it were unopposed, after which it is resolved in the individual's absence. Treating minor traffic violations in this way (as distinguished from more serious misdemeanor Vehicle Code violations) disposes of the need for arrest warrants, additional fines, and driver's license suspensions. And, just as in other civil cases, if a person misses court for a good reason, a simple process would be available to ask the court for a second chance.

The Proposal

This proposal recommends considering all Vehicle Code infractions as “civil traffic violations.” To bring the processes in line with existing civil procedures and foster a more user-friendly forum, changes to evidentiary standards, burden of proof, and procedures are recommended. The goal of this civil model of traffic infraction adjudication is to offer greater flexibility, simplicity, and a fairer process.

Even though a civil case model would offer flexibility, moving minor traffic violations (i.e., Vehicle Code infraction violations) into a civil adjudication model would not change the rules of the road: what is a violation now *would remain a violation*. Neither would it affect law enforcement's ability to do its job. Nor would it require these violations be heard in courtrooms assigned to hear other civil matters. And nothing about the proposal would change the way serious traffic offenses are handled, such as for charges like driving under the influence.

Under this proposal, criminal processes—including arraignment, forfeiting of “bail” for infractions, trials in absentia, and civil assessments and new criminal penalties for failure to appear and failure to pay—will be eliminated for civil traffic violations. Trials by written declaration will continue, but a defendant will not be required to post “bail” to have his or her

case adjudicated by declaration. Trials by electronically submitted declarations will be allowed. Trials de novo after a trial by declaration will be eliminated. The burden of proof will shift from “beyond a reasonable doubt” to a “preponderance of the evidence,” and the penalties for failure to appear and failure to pay will be less severe than under current criminal adjudication. Evidentiary standards for civil traffic violations will be similar to those for administrative hearings set out in [Government Code section 11513](#), with some modifications.

The proposal anticipates full online management, scheduling, and adjudication of civil traffic matters to make the process easier for court users as courts develop the capacity for online adjudication. It establishes civil procedures allowing for entry by the clerk of default judgments for failure to respond to a civil traffic violation when a defendant is personally served with the notice of violation. The proposal also establishes a new civil procedure when a defendant is not personally served with a notice of violation, such as for red light camera violations. In such cases, if a defendant fails to respond to the notice of violation, the court would be required to send the defendant a notice of noncompliance. If the defendant then fails to respond to a notice of noncompliance, the court may notify the Department of Motor Vehicles, and a registration hold may be placed on the defendant’s registration. Simple procedures are established to enable such a hold to be lifted.

The proposal does not change a defendant’s ability to request community service, traffic school, or an ability-to-pay determination. Neither does it change the Judicial Council’s role in developing and maintaining the civil counterpart for notice-to-appear citations, and the council would continue to be responsible for a uniform penalty schedule (currently, the [Uniform Bail and Penalty Schedules](#)) for civil traffic violations. The district attorney would continue to be the public prosecutor in the new system. Furthermore, the proposal does not change current authority for law enforcement officers to stop and temporarily detain suspected traffic violators. Because of the overarching public safety concerns at issue, courts would continue reporting to the Department of Motor Vehicles. Fines and fees other than civil assessments would continue in the new model as “civil penalties.” The proposal also continues existing policies regarding allowing juveniles to be adjudicated in adult traffic court if the court elects to follow that procedure.

Proposed new Vehicle Code statutes

Section 40650 (Definitions)

This section provides definitions for civil traffic violations and broad definitions for other terms included as civil traffic violations. For example, the term “infraction” appears in several areas in the Vehicle Code. Because a civil traffic violation is not an infraction, without these definitions, the proposal could inadvertently and unintentionally cease current procedures that should continue in the new model.

Section 40660 (Civil traffic violations)

This section creates civil traffic violations, a new class of civil offense. It provides that any violation of the Vehicle Code will be a civil traffic violation, unless otherwise provided (for

example, a misdemeanor). Because violations which are felonies and misdemeanors are identified separately, those offenses will not be civil traffic violations.

Section 40662 (Law enforcement authority to stop)

This section provides that law enforcement retains authority to stop and temporarily detain suspected violators. However, it clarifies that a civil model will not provide law enforcement with any greater authority than currently exists.

Section 40664 (Procedure to verify identity)

Because a person would no longer be required to sign a notice to appear, this section provides a procedure for law enforcement to verify the identity of a person suspected of committing a civil traffic violation. The language for this section was derived in part from Vehicle Code sections 40302 and 40307.

Section 40666 (Civil traffic violation (Summons))

Under the new system, a notice to appear would become a notice of civil traffic violation or, more simply, a notice of violation. The nature of the notice of violation would change to also function as a summons, and would still constitute a complaint to which the defendant might respond. The language for this section was derived in part from Vehicle Code sections 40513 and 40506.

Section 40668 (Contents of notice of civil traffic violation)

This section describes the contents of and preparation method for a notice of violation. The language for this section was derived in part from Vehicle Code section 40500.

Section 40670 (Authority of public prosecutor)

Under this section, the district attorney will continue to be the public prosecutor in the new system. The language for this section was derived in part from Government Code sections 26500 and 26507.

Section 40672 (Civil traffic violations combined with criminal matters)

This section provides that when a defendant is charged with a civil traffic violation and a criminal matter arising from the same act or omission, both offenses may appear on the same charging document and the procedures for the criminal offenses will be followed.

Section 40674 (Misdemeanor offenses that may be civil traffic violations)

This section provides that current Vehicle Code “woblettes” from Penal Code section 19.8 may be charged as either misdemeanors or civil traffic violations.

Section 40676 (Reminder notice)

This section provides that reminder notices will continue in the civil adjudication system, and the Judicial Council will establish a rule regarding reminder notices.

Section 40678 (Response to notice of violation)

This section provides the procedures for how a defendant may respond to a notice of violation. The possible responses are admitting responsibility, consenting to the entry of judgment without admitting responsibility (similar to a current “no contest” plea), and contesting the violation. In addition, this section provides that consenting to the entry of judgment without admitting responsibility will have the same effect as admitting responsibility and that a defendant’s response for a civil traffic violation may not be received into evidence as an admission in any other proceeding based on or arising out of the same act as the civil traffic violation. The language referencing a defendant’s response not being received into evidence is based on Penal Code section 1016, which refers to no contest pleas.

Section 40680 (Red light camera violations)

This section provides new procedures for automatic traffic enforcement systems, otherwise known as red light camera violations. It is derived from current Vehicle Code section 40518 but provides new procedures consistent with civil traffic violations, including requiring the notice of violation to include information on how and when a person may respond to the violation.

Section 40682 (Notice and affidavit of nonliability)

This section is based on Vehicle Code section 40520 and establishes procedures when the registered owner is claiming not to be the violator in a red light camera violation matter.

Section 40684 (Service not by personal delivery)

This section establishes procedures when a person is not personally served a notice of violation and provides for requirements for a notice of violation when there has not been personal service.

Section 40686 (Notice of noncompliance)

The new civil model of adjudication provides that if a person fails to respond to a notice of violation, the court may send the person a notice of noncompliance. This section provides for the contents of the notice of noncompliance, including notice that the person’s registration may be precluded by the Department of Motor Vehicles for failure to respond.

Section 40688 (Proceedings after notice of noncompliance; Transmittal to the department)

This section establishes the procedures when a person fails to respond to a notice of noncompliance. In such a case, the court may notify the Department of Motor Vehicles, which may refuse to renew or transfer the registration of a vehicle for which a notice of noncompliance has been transmitted. Once a person responds to the violation or makes a promise to respond, the court must notify the Department of Motor Vehicles.

Section 40690 (Request for trial)

This section establishes procedures for requesting a trial for civil traffic violations, including that a defendant may request a trial without making a personal appearance or payment of fees. This section was derived in part from Vehicle Code section 40902.

Section 40692 (Continuances)

This section establishes procedures for continuances; the language comes from Vehicle Code section 40506.5.

Section 40694 (Appearing through counsel)

This section clarifies that attorneys may appear on behalf of defendants for civil traffic violations, but defendants are not entitled to attorneys at public expense. This section is consistent with existent laws regarding infractions.

Section 40696 (In-person trial)

This section establishes procedures for trials that occur in person. If a defendant fails to appear, the court may direct the clerk to enter the defendant's default or hold the trial in the defendant's absence.

Section 40698 (Burden of proof)

This section establishes that the burden of proof for civil traffic violations will be preponderance of the evidence. The standard for the burden of proof came directly from the Futures Commission report.

Section 40700 (Evidentiary standards)

Under current law, because infractions are criminal, criminal standards of evidence are used. This section provides for new evidentiary standards which are intended to be simpler and more intuitive for self-represented persons to apply. This language comes largely from Government Code sections 11513 and 11515 which control the admission of evidence at administrative hearings, but the standard of hearsay is more flexible and intuitive and vests the bench officer with greater discretion to admit or exclude hearsay evidence. This section also provides a defendant may not be compelled to testify.

Section 40702 (Online adjudication)

This section authorizes online processing for all phases of traffic infractions, allowing for increased flexibility and the possibility of online disposition. The language for this section is derived largely from Vehicle Code section 40282.

Section 40704 (Optional disposition-only hearing)

This section provides for the statutory authority for courts to accept a defendant's "responsible with an explanation" request for hearing.

Section 40706 (Entry of default)

Consistent with the Futures Commission recommendation, this section provides for procedures for the entry of default for defendants who are personally served with a notice of violation and fail to respond. The defaulting party would be deemed to have submitted the alleged violation to the court for adjudication without opposition. No other penalties (e.g., civil assessments, arrest warrant, license suspension, new charges) would be imposed due to the defendant's failure to respond. When only a monetary penalty is imposed, the entry of judgment after default would be

a ministerial process. This section is derived largely from Code of Civil Procedure sections 585 and 587.

Section 40708 (Set aside of default)

This section establishes the procedures and timelines to set aside a default.

Section 40710 (Entry of judgment)

This section establishes procedures for entering the judgment if the defendant has failed to make a motion to set aside the default. This language is derived from Code of Civil Procedure section 585.

Section 40712 (Vacating the judgment)

This section provides the procedures for a defendant to vacate a judgment entered after default.

Section 40714 (Dual disposition)

The principle of Penal Code section 654, eliminating multiple punishments for the same criminal act, is preserved for civil traffic procedures through this section.

Section 40716 (Payment in installments)

This section preserves the authority of the clerk under Vehicle Code section 40510.5 to accept payment of the total fine in installments. It also preserves the fee of up to \$35 to administer a payment plan.

Section 40718 (Ability to pay)

Under current law, on request, a defendant has a right to an ability-to-pay determination for an infraction. This section provides statutory authority for an ability-to-pay determination for a civil traffic violation. It authorizes ministerial ability-to-pay determinations if the court complies with requirements in the statute. It also authorizes the court to waive or reduce the total amount due for a civil traffic violation. The language for this section is derived from Vehicle Code sections 42003, 40284, and 40286.

Section 40720 (Late fee)

This section eliminates civil assessments for civil traffic violations. However, it provides for a late fee of up to \$60 if a defendant fails to pay the amount due. A late fee must not be imposed until 60 days after notice that a late fee may be imposed if a defendant fails to pay the civil penalty when it is due.

Section 40722 (Appeal)

This section provides for statutory procedures for appeals for civil traffic violations, including that there may not be fees for filing an appeal. The language for this section is derived from Penal Code section 1466.

Section 40724 (Notice)

This section allows notices to be sent to the defendant's address or electronically, if a defendant consents to receive notices electronically. A defendant's provision of an electronic address or

telephone number would be deemed consent to receive notices electronically. A defendant may provide a notice of change of address.

Section 40726 (Reporting the judgment to the department)

The Vehicle Code currently requires that several infraction convictions be reported to the Department of Motor Vehicles. This section provides that a judgment for a civil traffic violation would be reported as a conviction.

Section 40728 (Past violations)

This section provides for procedures for the transition of offenses from infractions to civil traffic violations. It also provides procedures for infractions that are unadjudicated as of the date when civil traffic violations go into effect.

Section 40730 (Outstanding civil assessments)

This section provides that as of January 1, 2022, courts may not order or collect civil assessments for Vehicle Code infractions or civil traffic violations.

Section 40732 (Judicial Council authority to make rules and forms)

This section provides authority to the Judicial Council to make rules and forms in accordance with this chapter.

Proposed amendments

Vehicle Code

Section 13103 (Convictions). This amendment clarifies that a judgment for a civil traffic violation would be treated as a conviction.

Section 40000.1 (Infractions). This amendment clarifies that civil traffic violations replace current Vehicle Code infractions and that there are no filing fees for civil traffic violations.

Section 40000.3 (Felonies and misdemeanors). This amendment clarifies that offenses that are felonies or wobblers are not civil traffic violations.

Section 40310 (Uniform traffic penalty schedule). This amendment requires the Judicial Council to maintain the authority for a uniform traffic penalty schedule, but eliminates the requirement that the offenses be classified into four or fewer penalty categories. It also eliminates a late charge of 50 percent if a traffic penalty is not paid within 20 days.

Section 40902 (Trial by written declaration). This amendment changes the procedures for trial by written declaration. The amendment clarifies that a defendant may elect to have a trial by written or electronic declaration. The amendment also changes the evidentiary standards to be consistent with the evidentiary standards for civil traffic violations.

Section 42007 (Traffic violator school). This amendment preserves the ability of a defendant to complete traffic violator school for a civil traffic violation.

Government Code

Section 69957 (Electronic recording of proceedings). Proceedings for traffic infractions may currently be preserved by electronic recording. This amendment expands this ability to civil traffic violations, to replicate the current system.

Sections 76000 (Penalties), 76000.5 (EMS), 76000.10 (EMAT) 76104.6 (Penalties), 70372 (Court construction penalty, 70373 (Conviction assessment),), and 76104.7 (DNA penalty). These amendments add civil traffic violations to the offenses subject to these penalty amounts.

Penal Code

Section 19.8 (Misdemeanors with infraction). This amendment removes Vehicle Code infractions from the list of offenses that may be charged as either misdemeanors or infractions.

Section 1209.5 (Community service in lieu of fine for infractions). This amendment provides that a defendant would be able to perform community service in lieu of a fine for civil traffic violations.

Section 1269b (Judicial Council UBPS). This amendment provides that the Judicial Council would maintain responsibility for creating a penalty schedule for civil traffic violations.

Sections 1463.001 (Distribution), 1463.28 (Counties that may exceed UBPS), and 1465.8 (Court operations fee). 1464 (Penalty assessment). These amendments add civil traffic violations to the offenses subject to these penalty amounts.

Welfare and Institutions Code

Section 602 (Persons subject to jurisdiction of juvenile court and to adjudication as ward for violation of law or ordinance defining crime). This amendment provides for the current policy to continue for civil traffic violations and allows for civil traffic violations to be included with wardship offenses.

Section 603.5 (Jurisdiction over minors for specified motor vehicle violations). Under current law, traffic citations issued against children can be adjudicated in either adult traffic court or the juvenile system, depending on what procedure a court adopts. This amendment provides for the current policy to continue for civil traffic violations.

Proposed repeal of Vehicle Code sections

Section 40903 (Trials in absentia)

This statute would be repealed, consistent with the Futures Commission recommendation.

Sections 40518 and 40520 (Notice to appear for specified traffic offenses; Notice of nonliability)

These sections address automatic traffic enforcement violations. This proposal has created alternate procedures for these offenses.

Alternatives Considered

The Futures Traffic Working Group was charged with implementing and evaluating a civil model for adjudication of minor traffic infractions. The group considered whether some Vehicle Code violations should remain as criminal infractions, but became concerned that having a dual system of some civil traffic violations and some criminal traffic infractions would create confusion and inconsistencies within the Vehicle Code. The working group also considered whether all infractions—as opposed to just those in the Vehicle Code—should be included in the proposal; it determined that only Vehicle Code infractions were consistent with the charge by the Chief Justice and as contained in the proposal by the Futures Commission.

Fiscal and Operational Impacts

Adoption and implementation of civil adjudication of minor traffic violations represents a significant change in the law. The implementation of any legislation resulting from these recommendations would require that all courts adjudicate minor traffic infractions in a civil forum under modified laws and procedures. Implementing a civil model of adjudication for minor vehicle infractions requires changes for court administration and caseload. New legislation would be required to replace current traffic procedures. Implementation requires revision of various provisions of the Vehicle Code and other codes, corresponding rules of court, and council-approved forms. Additionally, implementation requires communication and coordination with law enforcement regarding the impacts on the processes of stopping and citing motorists. Outreach efforts likely will be needed to educate the public and update traffic infraction information on courts' websites. To accomplish these ends, some costs may be anticipated as follows:

Civil assessments: Depending on decisions made pertaining to civil assessments for failures to appear and failures to pay, the courts could see a decrease of all or some of the approximately \$98 million of annual civil assessment revenue. Note, however, that civil assessment revenue has declined nearly 39 percent, from \$160 million, to an estimated \$98 million, since Fiscal Year 2014–15.

Case management system costs: Likely but unknown costs associated with transitions within each court's traffic case management systems, including modules to address communications with DMV and other external stakeholders. External stakeholders also may incur case management and associated costs to adjust to a new system.

Training: Court personnel, including judicial officers, self-help staff, court clerks, interpreters, and others, as well as supports for non-court personnel will have to be developed, implemented, and made available. External stakeholders likewise may expect training costs and impacts.

Request for Specific Comments

In addition to comments on the proposal as a whole, the Futures Traffic Working Group is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Does the proposed burden of proof of preponderance of the evidence provide adequate due process for defendants?

The Futures Traffic Working Group also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings or increases? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would 36 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Text of the proposed legislation, at pages 12–52

Vehicle Code sections 40650–40732 would be sponsored; Government Code sections 69957, 70372, 70373, 76000, 76000.10, 76104.6, and 76104.7, Penal Code sections 19.8, 1209.5, 1269b, 1463.001, 1463.28, 1464, and 1465.8, Vehicle Code sections 13103, 40000.1, 40000.3, 40310, 40902, and 42007, and Welfare and Institution Code sections 602 and 603.5 would be amended; and, Vehicle Code sections 40518, 40520, and 40903 would be repealed, effective January 2, 2022 to read:

1 **Gov. Code, § 69957. Electronic recording of proceedings**

2
3 If an official reporter or an official reporter pro tempore is unavailable to report an action or
4 proceeding in a court, subject to the availability of approved equipment and equipment monitors,
5 the court may order that, in a limited civil case, or a misdemeanor or infraction or civil traffic
6 violation case, the action or proceeding be electronically recorded, including all the testimony,
7 the objections made, the ruling of the court, the exceptions taken, all arraignments, pleas, and
8 sentences of defendants in criminal cases, the arguments of the attorneys to the jury, and all
9 statements and remarks made and oral instructions given by the judge. A transcript derived from
10 an electronic recording may be utilized whenever a transcript of court proceedings is required.
11 Transcripts derived from electronic recordings shall include a designation of “inaudible” or
12 “unintelligible” for those portions of the recording that contain no audible sound or are not
13 discernible. The electronic recording device and appurtenant equipment shall be of a type
14 approved by the Judicial Council for courtroom use and shall only be purchased for use as
15 provided by this section. A court shall not expend funds for or use electronic recording
16 technology or equipment to make an unofficial record of an action or proceeding, including for
17 purposes of judicial notetaking, or to make the official record of an action or proceeding in
18 circumstances not authorized by this section.

19
20
21 **Gov. Code, § 76000. Penalties**

22
23 (a) (1) Except as otherwise provided elsewhere in this section, in each county there shall be
24 levied an additional penalty in the amount of seven dollars (\$7) for every ten dollars (\$10), or
25 part of ten dollars (\$10), upon every fine, penalty, or forfeiture imposed and collected by the
26 courts for all criminal offenses, including all offenses involving a violation of the Vehicle Code
27 or any local ordinance adopted pursuant to the Vehicle Code, and for all civil traffic violations.

28 (2) This additional penalty shall be collected together with and in the same manner as the
29 amounts established by Section 1464 of the Penal Code. These moneys shall be taken from fines
30 and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463
31 of the Penal Code. The county treasurer shall deposit those amounts specified by the board of
32 supervisors by resolution in one or more of the funds established pursuant to this chapter.
33 However, deposits to these funds shall continue through whatever period of time is necessary to
34 repay any borrowings made by the county on or before January 1, 1991, to pay for construction
35 provided for in this chapter.

36 (3) This additional penalty does not apply to the following:

37 (A) Any restitution fine.

38 (B) Any penalty authorized by Section 1464 of the Penal Code or this chapter.

1 (C) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of
2 Division 17 of the Vehicle Code.

3 (D) The state surcharge authorized by Section 1465.7 of the Penal Code.

4 (b) In each authorized county, provided that the board of supervisors has adopted a resolution
5 stating that the implementation of this subdivision is necessary to the county for the purposes
6 authorized, with respect to each authorized fund established pursuant to Section 76100 or 76101,
7 for every parking offense where a parking penalty, fine, or forfeiture is imposed, an added
8 penalty of two dollars and fifty cents (\$2.50) shall be included in the total penalty, fine, or
9 forfeiture. Except as provided in subdivision (c), for each parking case collected in the courts of
10 the county, the county treasurer shall place in each authorized fund two dollars and fifty cents
11 (\$2.50). These moneys shall be taken from fines and forfeitures deposited with the county
12 treasurer prior to any division pursuant to Section 1462.3 or 1463.009 of the Penal Code. The
13 judges of the county shall increase the bail schedule amounts as appropriate to reflect the added
14 penalty provided for by this section. In those cities, districts, or other issuing agencies which
15 elect to accept parking penalties, and otherwise process parking violations pursuant to Article 3
16 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code, that city,
17 district, or issuing agency shall observe the increased bail amounts as established by the court
18 reflecting the added penalty provided for by this section. Each agency which elects to process
19 parking violations shall pay to the county treasurer two dollars and fifty cents (\$2.50) for each
20 fund for each parking penalty collected on each violation which is not filed in court. Those
21 payments to the county treasurer shall be made monthly, and the county treasurer shall deposit
22 all those sums in the authorized fund. No issuing agency shall be required to contribute revenues
23 to any fund in excess of those revenues generated from the surcharges established in the
24 resolution adopted pursuant to this chapter, except as otherwise agreed upon by the local
25 governmental entities involved.

26 (c) The county treasurer shall deposit one dollar (\$1) of every two dollars and fifty cents (\$2.50)
27 collected pursuant to subdivision (b) into the general fund of the county.

28 (d) The authority to impose the two-dollar-and-fifty-cent (\$2.50) penalty authorized by
29 subdivision (b) shall be reduced to one dollar (\$1) as of the date of transfer of responsibility for
30 facilities from the county to the Judicial Council pursuant to Article 3 (commencing with Section
31 70321) of Chapter 5.1, except as money is needed to pay for construction provided for in Section
32 76100 and undertaken prior to the transfer of responsibility for facilities from the county to the
33 Judicial Council.

34 (e) The seven-dollar (\$7) additional penalty authorized by subdivision (a) shall be reduced in
35 each county by the additional penalty amount assessed by the county for the local courthouse
36 construction fund established by Section 76100 as of January 1, 1998, when the money in that
37 fund is transferred to the state under Section 70402. The amount each county shall charge as an
38 additional penalty under this section shall be as follows:...

39
40

1 **Gov. Code, § 76104.6. Penalties**

2
3 (a) (1) Except as otherwise provided in this section, for the purpose of implementing the DNA
4 Fingerprint, Unsolved Crime and Innocence Protection Act (Proposition 69), as approved by the
5 voters at the November 2, 2004, statewide general election, there shall be levied an additional
6 penalty of one dollar (\$1) for every ten dollars (\$10), or part of ten dollars (\$10), in each county
7 upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal
8 offenses, including all offenses involving a violation of the Vehicle Code or a local ordinance
9 adopted pursuant to the Vehicle Code, and all civil traffic violations.

10 (2) The penalty imposed by this section shall be collected together with and in the same manner
11 as the amounts established by Section 1464 of the Penal Code. The moneys shall be taken from
12 fines and forfeitures deposited with the county treasurer prior to any division pursuant to Section
13 1463 of the Penal Code. The board of supervisors shall establish in the county treasury a DNA
14 Identification Fund into which shall be deposited the moneys collected pursuant to this section.
15 The moneys of the fund shall be allocated pursuant to subdivision (b).

16 (3) The additional penalty does not apply to the following:

17 (A) A restitution fine.

18 (B) A penalty authorized by Section 1464 of the Penal Code or this chapter.

19 (C) A parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of
20 Division 17 of the Vehicle Code.

21 (D) The state surcharge authorized by Section 1465.7 of the Penal Code.

22 (b) (1) The fund moneys described in subdivision (a), together with any interest earned thereon,
23 shall be held by the county treasurer separate from any funds subject to transfer or division
24 pursuant to Section 1463 of the Penal Code. Deposits to the fund may continue through and
25 including the 20th year after the initial calendar year in which the surcharge is collected, or
26 longer if and as necessary to make payments upon any lease or leaseback arrangement utilized to
27 finance any of the projects specified herein.

28 (2) On the last day of each calendar quarter of the year specified in this subdivision, the county
29 treasurer shall transfer fund moneys in the county's DNA Identification Fund to the Controller
30 for credit to the state's DNA Identification Fund, which is hereby established in the State
31 Treasury, as follows:

32 (A) In the first two calendar years following the effective date of this section, 70 percent of the
33 amounts collected, including interest earned thereon.

34 (B) In the third calendar year following the effective date of this section, 50 percent of the
35 amounts collected, including interest earned thereon.

36 (C) In the fourth calendar year following the effective date of this section and in each calendar
37 year thereafter, 25 percent of the amounts collected, including interest earned thereon.

38 (3) Funds remaining in the county's DNA Identification Fund shall be used only for the
39 following purposes:

1 (A) To reimburse local sheriff or other law enforcement agencies for the collection of DNA
2 specimens, samples, and print impressions pursuant to this chapter.

3 (B) For expenditures and administrative costs made or incurred to comply with the requirements
4 of paragraph (5) of subdivision (b) of Section 298 of the Penal Code, including the procurement
5 of equipment and software integral to confirming that a person qualifies for entry into the
6 Department of Justice DNA and Forensic Identification Database and Data Bank Program.

7 (C) To reimburse local sheriff, police, district attorney, and regional state crime laboratories for
8 expenditures and administrative costs made or incurred in connection with the processing,
9 analysis, tracking, and storage of DNA crime scene samples from cases in which DNA evidence
10 would be useful in identifying or prosecuting suspects, including the procurement of equipment
11 and software for the processing, analysis, tracking, and storage of DNA crime scene samples
12 from unsolved cases.

13 (D) (i) If authorized by a resolution of the board of supervisors, and after the distributions
14 provided in subparagraphs (A), (B), and (C), a local sheriff or police department, or the district
15 attorney's office, may use remaining funds, either independently or in combination with
16 remaining funds from another county, to provide supplemental funding to a qualified local or
17 regional state forensic laboratory for expenditures and administrative costs made or incurred in
18 connection with the processing, analysis, and comparison of DNA crime scene samples and
19 forensic identification samples, and testimony related to that analysis. This subparagraph shall
20 apply only to those counties that do not have a local public law enforcement laboratory, and does
21 not authorize any transfer that will interfere with the operation of subparagraph (A). Any
22 supplemental funding provided pursuant to this subparagraph shall not be used to supplant funds
23 already allocated to a qualified local or regional state forensic laboratory by the state's DNA
24 Identification Fund.

25 (ii) For purposes of this subparagraph, a qualified local or regional state forensic laboratory is a
26 Department of Justice regional forensic laboratory or a local law enforcement agency forensic
27 laboratory that meets state and federal requirements for contributing DNA profiles for inclusion
28 in California's DNA databank, including the FBI Quality Assurance Standards and accreditation
29 requirements, and shall be accredited by an organization approved by the National DNA Index
30 System (NDIS) Procedures Board.

31 (4) The state's DNA Identification Fund shall be administered by the Department of Justice.
32 Funds in the state's DNA Identification Fund, upon appropriation by the Legislature, shall be
33 used by the Attorney General only to support DNA testing in the state and to offset the impacts
34 of increased testing and shall be allocated as follows:

35 (A) Of the amount transferred pursuant to subparagraph (A) of paragraph (2) of subdivision (b),
36 90 percent to the Department of Justice DNA Laboratory, first, to comply with the requirements
37 of Section 298.3 of the Penal Code and, second, for expenditures and administrative costs made
38 or incurred in connection with the processing, analysis, tracking, and storage of DNA specimens
39 and samples including the procurement of equipment and software for the processing, analysis,
40 tracking, and storage of DNA samples and specimens obtained pursuant to the DNA and

1 Forensic Identification Database and Data Bank Act of 1998, as amended by Chapter 6
2 (commencing with Section 295) of Title 9 of Part 1 of the Penal Code, and 10 percent to the
3 Department of Justice Information Bureau Criminal History Unit for expenditures and
4 administrative costs that have been approved by the Chief of the Department of Justice Bureau of
5 Forensic Services made or incurred to update equipment and software to facilitate compliance
6 with the requirements of subdivision (e) of Section 299.5 of the Penal Code.

7 (B) Of the amount transferred pursuant to subparagraph (B) of paragraph (2) of subdivision (b),
8 funds shall be allocated by the Department of Justice DNA Laboratory, first, to comply with the
9 requirements of Section 298.3 of the Penal Code and, second, for expenditures and
10 administrative costs made or incurred in connection with the processing, analysis, tracking, and
11 storage of DNA specimens and samples including the procurement of equipment and software
12 for the processing, analysis, tracking, and storage of DNA samples and specimens obtained
13 pursuant to the DNA and Forensic Identification Database and Data Bank Act of 1998, as
14 amended.

15 (C) Of the amount transferred pursuant to subparagraph (C) of paragraph (2) of subdivision (b),
16 funds shall be allocated by the Department of Justice to the DNA Laboratory to comply with the
17 requirements of Section 298.3 of the Penal Code and for expenditures and administrative costs
18 made or incurred in connection with the processing, analysis, tracking, and storage of DNA
19 specimens and samples including the procurement of equipment and software for the processing,
20 analysis, tracking, and storage of DNA samples and specimens obtained pursuant to the DNA
21 and Forensic Identification Database and Data Bank Act of 1998, as amended.

22 (c) On or before April 1 in the year following adoption of this section, and annually thereafter,
23 the board of supervisors of each county shall submit a report to the Legislature and the
24 Department of Justice. The report shall include the total amount of fines collected and allocated
25 pursuant to this section, and the amounts expended by the county for each program authorized
26 pursuant to paragraph (3) of subdivision (b). The Department of Justice shall make the reports
27 publicly available on the department's Internet Web site.

28 (d) All requirements imposed on the Department of Justice pursuant to the DNA Fingerprint,
29 Unsolved Crime and Innocence Protection Act are contingent upon the availability of funding
30 and are limited by revenue, on a fiscal year basis, received by the Department of Justice pursuant
31 to this section and any additional appropriation approved by the Legislature for purposes related
32 to implementing this act.

33 (e) Upon approval of the DNA Fingerprint, Unsolved Crime and Innocence Protection Act, the
34 Legislature shall lend the Department of Justice General Fund in the amount of seven million
35 dollars (\$7,000,000) for purposes of implementing the act. The loan shall be repaid with interest
36 calculated at the rate earned by the Pooled Money Investment Account at the time the loan is
37 made. Principal and interest on the loan shall be repaid in full no later than four years from the
38 date the loan was made and shall be repaid from revenue generated pursuant to this section.

39 (f) Notwithstanding any other law, the Controller may use the state's DNA Identification Fund,
40 created pursuant to paragraph (2) of subdivision (b), for loans to the General Fund as provided in

1 Sections 16310 and 16381. Any such loan shall be repaid from the General Fund with interest
2 computed at 110 percent of the Pooled Money Investment Account rate, with the interest
3 commencing to accrue on the date the loan is made from the fund. This subdivision does not
4 authorize any transfer that will interfere with the carrying out of the object for which the state's
5 DNA Identification Fund was created.

6
7
8 **Gov. Code, § 70372. Court construction penalty**
9

10 (a) (1) Except as otherwise provided in this article, there shall be levied a state court construction
11 penalty, in the amount of five dollars (\$5) for every ten dollars (\$10), or part of ten dollars (\$10),
12 upon every fine, penalty, or forfeiture imposed and collected by the courts for all criminal
13 offenses, including, but not limited to, all offenses involving a violation of a section of the Fish
14 and Game Code, the Health and Safety Code, or the Vehicle Code or any local ordinance
15 adopted pursuant to the Vehicle Code, and for all civil traffic violations. This penalty is in
16 addition to any other state or local penalty, including, but not limited to, the penalty provided by
17 Section 1464 of the Penal Code and Section 76000.

18 (2) This construction penalty does not apply to the following:

19 (A) Any restitution fine.

20 (B) Any penalty authorized by Section 1464 of the Penal Code or Chapter 12 (commencing with
21 Section 76000) of Title 8.

22 (C) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of
23 Division 17 of the Vehicle Code.

24 (D) The state surcharge authorized by Section 1465.7 of the Penal Code.

25 (b) In addition to the penalty provided by subdivision (a), for every parking offense where a
26 parking penalty, fine, or forfeiture is imposed, an added state court construction penalty of four
27 dollars and fifty cents (\$4.50) shall be included in the total penalty, fine, or forfeiture. These
28 moneys shall be taken from fines and forfeitures deposited with the county treasurer prior to any
29 division pursuant to Section 1462.3 or 1463.009 of the Penal Code. In those cities, districts, or
30 other issuing agencies which elect to accept parking penalties, and otherwise process parking
31 violations pursuant to Article 3 (commencing with Section 40200) of Chapter 1 of Division 17 of
32 the Vehicle Code, that city, district, or issuing agency shall observe the increased bail amounts as
33 established by the court reflecting the added penalty provided for by this subdivision. Each
34 agency that elects to process parking violations shall pay to the county treasurer four dollars and
35 fifty cents (\$4.50) for the parking penalty imposed by this subdivision for each violation that is
36 not filed in court. Those payments to the county treasurer shall be made monthly, and the county
37 treasurer shall transmit these sums as provided in paragraph (2) of subdivision (f). In the event
38 these payments were deposited in a local courthouse construction fund and expended pursuant to
39 the provisions of Chapter 592 of the Statutes of 2003, no county or processing agency shall be
40 liable for the failure to transmit the payments to the Controller during the 2008 calendar year.

1 (c) If multiple offenses are involved, the state court construction penalty under subdivision (a)
2 shall be based upon the total fine or bail for each case. If a fine is suspended, in whole or in part,
3 the state court construction penalty under subdivision (a) shall be reduced in proportion to the
4 suspension.

5 (d) If any deposited bail is made for an offense to which this section applies, and for which a
6 court appearance is not mandatory, the person making the deposit shall also deposit a sufficient
7 amount to include the state court construction penalty prescribed by subdivision (a) for forfeited
8 bail. If bail is returned, the state court construction penalty paid thereon pursuant to subdivision
9 (a) shall also be returned.

10 (e) In any case where a person convicted of any offense, to which this section applies, is in
11 prison until the fine is satisfied, the judge may waive all or any part of the state court
12 construction penalty, the payment of which would work a hardship on the person convicted or
13 his or her immediate family.

14 (f) (1) Within 45 days after the end of the month that moneys are deposited in the county treasury
15 pursuant to subdivision (a), the county treasurer shall transmit the moneys to the Controller, to be
16 deposited as follows:

17 (A) The total to be deposited pursuant to subdivision (a) shall be multiplied by a fraction as
18 follows:

19 (i) The numerator is the amount imposed as of January 1, 1998, as an additional penalty on every
20 ten dollars (\$10), or part of ten dollars (\$10), upon every fine, penalty, or forfeiture, if any, for
21 deposit into the local courthouse construction fund in that county established pursuant to
22 Sections 76000 and 76100. The numerator shall be expressed in whole dollars and fractions of a
23 dollar.

24 (ii) The denominator is five dollars (\$5).

25 (B) The resulting amount shall be deposited in the Immediate and Critical Needs Account of the
26 State Court Facilities Construction Fund, established in Section 70371.5.

27 (C) The remaining amount of the deposit shall be deposited in the State Court Facilities
28 Construction Fund.

29 (2) Within 45 days after the end of the month that moneys are deposited in the county treasury
30 pursuant to subdivision (b), the county treasurer shall transmit the moneys to the Controller to be
31 deposited as follows: one-third of the total amount shall be deposited in the State Court Facilities
32 Construction Fund and two-thirds of the total amount shall be deposited in the Immediate and
33 Critical Needs Account of the State Court Facilities Construction Fund, established in Section
34 70371.5.

35
36 **Gov. Code, § 70373. Conviction assessment**

37
38 (a) (1) To ensure and maintain adequate funding for court facilities, an assessment shall be
39 imposed on every conviction for a criminal offense, including a traffic offense, and for civil
40 traffic violations, except parking offenses as defined in subdivision (i) of Section 1463 of the

1 Penal Code, involving a violation of a section of the Vehicle Code or any local ordinance
2 adopted pursuant to the Vehicle Code. The assessment shall be imposed in the amount of thirty
3 dollars (\$30) for each misdemeanor or felony and in the amount of thirty-five dollars (\$35) for
4 each infraction.

5 (2) For the purposes of this section, “conviction” includes the dismissal of a traffic violation on
6 the condition that the defendant attend a court-ordered traffic violator school, as authorized by
7 Sections 41501 and 42005 of the Vehicle Code. This assessment shall be deposited in
8 accordance with subdivision (d), and may not be included with the fee calculated and distributed
9 pursuant to Section 42007 of the Vehicle Code.

10 (b) This assessment shall be in addition to the state penalty assessed pursuant to Section 1464 of
11 the Penal Code and may not be included in the base fine to calculate the state penalty assessment
12 as specified in subdivision (a) of Section 1464 of the Penal Code. The penalties authorized by
13 Chapter 12 (commencing with Section 76000), and the state surcharge authorized by Section
14 1465.7 of the Penal Code, do not apply to this assessment.

15 (c) When bail is deposited for an offense to which this section applies, and for which a court
16 appearance is not necessary, the person making the deposit also shall deposit a sufficient amount
17 to include the assessment prescribed by this section.

18 (d) Notwithstanding any other law, the assessments collected pursuant to subdivision (a) shall all
19 be deposited in a special account in the county treasury and transmitted therefrom monthly to the
20 Controller for deposit in the Immediate and Critical Needs Account of the State Court Facilities
21 Construction Fund, established in Section 70371.5.

22 (e)The Judicial Council shall provide for the administration of this section.
23
24

25 **Gov. Code, § 76000.5. Emergency Medical Services**

26
27 (a) (1) Except as otherwise provided in this section, for purposes of supporting emergency
28 medical services pursuant to Chapter 2.5 (commencing with Section 1797.98a) of Division 2.5 of
29 the Health and Safety Code, in addition to the penalties set forth in Section 76000, the county
30 board of supervisors may elect to levy an additional penalty in the amount of two dollars (\$2) for
31 every ten dollars (\$10), or part of ten dollars (\$10), upon every fine, penalty, or forfeiture
32 imposed and collected by the courts for all criminal offenses, including violations of Division 9
33 (commencing with Section 23000) of the Business and Professions Code relating to the control
34 of alcoholic beverages, for all civil traffic violations, and for offenses involving a violation of the
35 Vehicle Code or a local ordinance adopted pursuant to the Vehicle Code. This penalty shall be
36 collected together with and in the same manner as the amounts established by Section 1464 of
37 the Penal Code.

38 (2) This additional penalty does not apply to the following:

39 (A) A restitution fine.

40 (B) A penalty authorized by Section 1464 of the Penal Code or this chapter.

1 (C) A parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of
2 Division 17 of the Vehicle Code.

3 (D) The state surcharge authorized by Section 1465.7 of the Penal Code.

4 (b) Funds shall be collected pursuant to subdivision (a) only if the county board of supervisors
5 provides that the increased penalties do not offset or reduce the funding of other programs from
6 other sources, but that these additional revenues result in increased funding to those programs.

7 (c) Moneys collected pursuant to subdivision (a) shall be taken from fines and forfeitures
8 deposited with the county treasurer prior to any division pursuant to Section 1463 of the Penal
9 Code.

10 (d) Funds collected pursuant to this section shall be deposited into the Maddy Emergency
11 Medical Services (EMS) Fund established pursuant to Section 1797.98a of the Health and Safety
12 Code.

13 (e) This section shall remain in effect until January 1, 2027.

14
15
16 **Gov. Code, § 76000.10. EMAT**

17
18 (a) This section shall be known, and may be cited, as the Emergency Medical Air Transportation
19 Act.

20 (b) For purposes of this section:

21 (1) "Department" means the State Department of Health Care Services.

22 (2) "Director" means the Director of Health Care Services.

23 (3) "Provider" means a provider of emergency medical air transportation services.

24 (4) "Rotary wing" means a type of aircraft, commonly referred to as a helicopter, that generates
25 lift through the use of wings, known as rotor blades, that revolve around a mast.

26 (5) "Fixed wing" means a type of aircraft, commonly referred to as an airplane, that generates lift
27 through the use of the forward motion of the aircraft and wings that do not revolve around a mast
28 but are fixed in relation to the fuselage of the aircraft.

29 (6) "Air mileage rate" means the per-mileage reimbursement rate paid for services rendered by
30 rotary-wing and fixed-wing providers.

31 (c) (1) For purposes of implementing this section, a penalty of four dollars (\$4) shall be imposed
32 upon every conviction for a violation of the Vehicle Code or a local ordinance adopted pursuant
33 to the Vehicle Code, including civil traffic violations, except parking offenses subject to Article
34 3 (commencing with Section 40200) of Chapter 1 of Division 17 of the Vehicle Code.

35 (2) The penalty described in this subdivision shall be in addition to the state penalty assessed
36 pursuant to Section 1464 of the Penal Code. However, this penalty shall not be included in the
37 base fine used to calculate the state penalty assessment pursuant to subdivision (a) of Section
38 1464 of the Penal Code, the state surcharge levied pursuant to Section 1465.7 of the Penal Code,
39 and the state court construction penalty pursuant to Section 70372 of this code, and to calculate
40 the other additional penalties levied pursuant to this chapter.

1 (d) The county or the court that imposed the fine shall, in accordance with the procedures set out
2 in Section 68101, transfer moneys collected pursuant to this section to the Treasurer for deposit
3 into the Emergency Medical Air Transportation and Children's Coverage Fund, which is hereby
4 established in the State Treasury. Notwithstanding Section 16305.7, the Emergency Medical Air
5 Transportation and Children's Coverage Fund shall include interest and dividends earned on
6 money in the fund. Any law that references the Emergency Medical Air Transportation Act
7 Fund, as previously established by this subdivision, shall be construed to reference the
8 Emergency Medical Air Transportation and Children's Coverage Fund, effective January 1,
9 2018.

10 (e) (1) The Emergency Medical Air Transportation and Children's Coverage Fund shall be
11 administered by the State Department of Health Care Services. Moneys in the Emergency
12 Medical Air Transportation and Children's Coverage Fund shall be made available, upon
13 appropriation by the Legislature, to the department for any of the following purposes:
14 (A) For children's health care coverage.
15 (B) For emergency medical air transportation provider payments, as follows:
16 (i) For payment of the administrative costs of the department in administering emergency
17 medical air transportation provider payments.
18 (ii) Twenty percent of the appropriated money remaining after payment of administrative costs
19 pursuant to clause (i) shall be used to offset the state portion of the Medi-Cal reimbursement rate
20 for emergency medical air transportation services.
21 (iii) Eighty percent of the appropriated money remaining after payment of administrative costs
22 pursuant to clause (i) shall be used to augment emergency medical air transportation
23 reimbursement payments made through the Medi-Cal program, as set forth in paragraphs (2) and
24 (3).

25 (2) If money in the Emergency Medical Air Transportation and Children's Fund is made
26 available to the department for the purpose described in subparagraph (B) of paragraph (1), both
27 of the following shall occur:
28 (A) The department shall seek to obtain federal matching funds by using the moneys in the
29 Emergency Medical Air Transportation and Children's Coverage Fund for the purpose of
30 augmenting Medi-Cal reimbursement paid to emergency medical air transportation providers.
31 (B) The director shall augment emergency medical air transportation provider payments in
32 accordance with a federally approved reimbursement methodology. The director may seek
33 federal approvals or waivers as may be necessary to implement this section and to obtain federal
34 financial participation to the maximum extent possible for the payments under this section.

35 (3) (A) Upon appropriation by the Legislature, the department shall use moneys in the
36 Emergency Medical Air Transportation and Children's Coverage Fund and any federal matching
37 funds to do any of the following:
38 (i) Fund children's health care coverage.
39 (ii) Increase the Medi-Cal reimbursement for emergency medical air transportation services in an
40 amount not to exceed normal and customary charges charged by the providers.

1 (B) Notwithstanding any other law, and pursuant to this section, if money in the Emergency
2 Medical Air Transportation and Children’s Coverage Fund is made available to the department
3 for the purpose described in subparagraph (B) of paragraph (1), the department shall increase the
4 Medi-Cal reimbursement for emergency medical air transportation services if both of the
5 following conditions are met:

6 (i) Moneys in the Emergency Medical Air Transportation and Children’s Coverage Fund will
7 cover the cost of increased payments pursuant to clause (iii) of subparagraph (B) of paragraph
8 (1).

9 (ii) The state does not incur any General Fund expense to pay for the Medi-Cal emergency
10 medical air transportation services increase.

11 (f) The assessment of penalties pursuant to this section shall terminate on January 1, 2020.
12 Penalties assessed before January 1, 2020, shall continue to be collected, administered, and
13 distributed pursuant to this section until exhausted or until June 30, 2021, whichever occurs first.
14 On June 30, 2021, moneys remaining unexpended and unencumbered in the Emergency Medical
15 Air Transportation and Children’s Coverage Fund shall be transferred to the General Fund, to be
16 available, upon appropriation by the Legislature, for the purposes of augmenting Medi-Cal
17 reimbursement for emergency medical air transportation and related costs, generally, or funding
18 children’s health care coverage.

19 (g) Notwithstanding the rulemaking provisions of Chapter 3.5 (commencing with Section 11340)
20 of Part 1 of Division 3 of Title 2, the department may implement, interpret, or make specific this
21 section and any applicable federal waivers and state plan amendments by means of all-county
22 letters, plan letters, plan or provider bulletins, or similar instructions without taking regulatory
23 action.

24 (h) This section shall remain in effect only until January 1, 2022, and as of that date is repealed,
25 unless a later enacted statute, that is enacted before January 1, 2022, deletes or extends that date.

26
27
28 **Gov. Code, § 76104.7. DNA penalty**

29
30 (a) Except as otherwise provided in this section, in addition to the penalty levied pursuant to
31 Section 76104.6, there shall be levied an additional state-only penalty of four dollars (\$4) for
32 every ten dollars (\$10), or part of ten dollars (\$10), in each county upon every fine, penalty, or
33 forfeiture imposed and collected by the courts for all criminal offenses, including all offenses
34 involving a violation of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle
35 Code, and for all civil traffic violations.

36 (b) This additional penalty shall be collected together with, and in the same manner as, the
37 amounts established by Section 1464 of the Penal Code. These moneys shall be taken from fines
38 and forfeitures deposited with the county treasurer prior to any division pursuant to Section 1463
39 of the Penal Code. These funds shall be deposited into the county treasury DNA Identification
40 Fund. One hundred percent of these funds, including any interest earned thereon, shall be

1 transferred to the state Controller at the same time that moneys are transferred pursuant to
2 paragraph (2) of subdivision (b) of Section 76104.6, for deposit into the state's DNA
3 Identification Fund. These funds shall be used to fund the operations of the Department of
4 Justice forensic laboratories, including the operation of the DNA Fingerprint, Unsolved Crime
5 and Innocence Protection Act, and to facilitate compliance with the requirements of subdivision
6 (e) of Section 299.5 of the Penal Code.

7 (c) This additional penalty does not apply to the following:

8 (1) Any restitution fine.

9 (2) Any penalty authorized by Section 1464 of the Penal Code or this chapter.

10 (3) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of
11 Division 17 of the Vehicle Code.

12 (4) The state surcharge authorized by Section 1465.7 of the Penal Code.

13 (d) The fees collected pursuant to this section shall not be subject to subdivision (e) of Section
14 1203.1d of the Penal Code, but shall be disbursed under paragraph (3) of subdivision (b) of
15 Section 1203.1d of the Penal Code.

16 (3) Any bail or penalty schedule adopted pursuant to Section 1269b of the Penal Code or adopted
17 by the Judicial Council pursuant to Section 40310 of the Vehicle Code may include the
18 necessary amount to pay the penalty established by this section, the penalties authorized by
19 Section 1464 of the Penal Code and Chapter 12 (commencing with Section 76000) of Title 8,
20 and the surcharge authorized by Section 1465.7 of the Penal Code for all matters where a
21 personal appearance is not mandatory and the bail is posted primarily to guarantee payment of
22 the fine. After a determination by the court of the amount due, the clerk of the court shall collect
23 the penalty and transmit it immediately to the county treasury and the county treasurer shall
24 transmit these sums as provided in subdivision (f).

25
26
27 **Pen. Code, § 19.8. Misdemeanors with infractions**

28
29 (a) The following offenses are subject to subdivision (d) of Section 17: Sections 193.8, 330, 415,
30 485, 490.7, 555, 602.13, and 853.7 of this code; subdivision (c) of Section 532b, and subdivision
31 (o) of Section 602 of this code; subdivision (b) of Section 25658 and Sections 21672, 25661, and
32 25662 of the Business and Professions Code; Section 27204 of the Government Code;
33 ~~subdivision (c) of Section 23109 and Sections 5201.1, 12500, 14601.1, 27150.1, 40508, and~~
34 ~~42005 of the Vehicle Code~~, and any other offense that the Legislature makes subject to
35 subdivision (d) of Section 17. Except where a lesser maximum fine is expressly provided for a
36 violation of those sections, a violation that is an infraction is punishable by a fine not exceeding
37 two hundred fifty dollars (\$250).

38 (b) Except in cases where a different punishment is prescribed, every offense declared to be an
39 infraction is punishable by a fine not exceeding two hundred fifty dollars (\$250).

1 (c) Except for the violations enumerated in subdivision (d) of Section 13202.5 of the Vehicle
2 Code, and Section 14601.1 of the Vehicle Code based upon failure to appear, a conviction for an
3 offense made an infraction under subdivision (d) of Section 17 is not grounds for the suspension,
4 revocation, or denial of a license, or for the revocation of probation or parole of the person
5 convicted.

6
7
8 **Pen. Code, § 1209.5. Community service in lieu of fine for infractions**
9

10 (a) Notwithstanding any other law, the court shall permit a person convicted of an infraction or a
11 civil traffic violation, upon a showing that payment of the total fine would pose a hardship on the
12 defendant or his or her family, to elect to perform community service in lieu of the total fine that
13 would otherwise be imposed.

14 (b) For purposes of this section, the term “total fine” means ~~the total bail, including~~ the base fine
15 and all assessments, penalties, and additional moneys to be paid by the defendant.

16 (c) (1) For purposes of this section, the hourly rate applicable to community service performed
17 pursuant to this section shall be double the minimum wage set for the applicable calendar year,
18 based on the schedule for an employer who employs 25 or fewer employees, as established in
19 paragraph (2) of subdivision (b) of Section 1182.12 of the Labor Code.

20 (2) Notwithstanding paragraph (1), a court may by local rule increase the amount that is credited
21 for each hour of community service performed pursuant to this section, to exceed the hourly rate
22 described in paragraph (1).

23
24
25 **Pen. Code, § 1269b. Judicial Council UBPS**
26

27 (a) The officer in charge of a jail in which an arrested person is held in custody, an officer of a
28 sheriff’s department or police department of a city who is in charge of a jail or is employed at a
29 fixed police or sheriff’s facility and is acting under an agreement with the agency that keeps the
30 jail in which an arrested person is held in custody, an employee of a sheriff’s department or
31 police department of a city who is assigned by the department to collect bail, the clerk of the
32 superior court of the county in which the offense was alleged to have been committed, and the
33 clerk of the superior court in which the case against the defendant is pending may approve and
34 accept bail in the amount fixed by the warrant of arrest, schedule of bail, or order admitting to
35 bail in cash or surety bond executed by a certified, admitted surety insurer as provided in the
36 Insurance Code, to issue and sign an order for the release of the arrested person, and to set a time
37 and place for the appearance of the arrested person before the appropriate court and give notice
38 thereof.

39 (b) If a defendant has appeared before a judge of the court on the charge contained in the
40 complaint, indictment, or information, the bail shall be in the amount fixed by the judge at the
41 time of the appearance. If that appearance has not been made, the bail shall be in the amount

1 fixed in the warrant of arrest or, if no warrant of arrest has been issued, the amount of bail shall
2 be pursuant to the uniform countywide schedule of bail for the county in which the defendant is
3 required to appear, previously fixed and approved as provided in subdivisions (c) and (d).

4 (c) It is the duty of the superior court judges in each county to prepare, adopt, and annually revise
5 a uniform countywide schedule of bail for allailable felony offenses and for all misdemeanor
6 and infraction offenses except Vehicle Code infractions. The penalty schedule for ~~infraction~~ civil
7 traffic violations of the Vehicle Code shall be established by the Judicial Council in accordance
8 with Section 40310 of the Vehicle Code.

9 (d) A court may, by local rule, prescribe the procedure by which the uniform countywide
10 schedule of bail is prepared, adopted, and annually revised by the judges. If a court does not
11 adopt a local rule, the uniform countywide schedule of bail shall be prepared, adopted, and
12 annually revised by a majority of the judges.

13 (e) In adopting a uniform countywide schedule of bail for allailable felony offenses the judges
14 shall consider the seriousness of the offense charged. In considering the seriousness of the
15 offense charged the judges shall assign an additional amount of required bail for each
16 aggravating or enhancing factor chargeable in the complaint, including, but not limited to,
17 additional bail for charges alleging facts that would bring a person within any of the following
18 sections: Section 667.5, 667.51, 667.6, 667.8, 667.85, 667.9, 667.10, 12022, 12022.1, 12022.2,
19 12022.3, 12022.4, 12022.5, 12022.53, 12022.6, 12022.7, 12022.8, or 12022.9 of this code, or
20 Section 11356.5, 11370.2, or 11370.4 of the Health and Safety Code.

21 In considering offenses in which a violation of Chapter 6 (commencing with Section 11350) of
22 Division 10 of the Health and Safety Code is alleged, the judge shall assign an additional amount
23 of required bail for offenses involving large quantities of controlled substances.

24 (f) The countywide bail schedule shall contain a list of the offenses and the amounts of bail
25 applicable for each as the judges determine to be appropriate. If the schedule does not list all
26 offenses specifically, it shall contain a general clause for designated amounts of bail as the
27 judges of the county determine to be appropriate for all the offenses not specifically listed in the
28 schedule. A copy of the countywide bail schedule shall be sent to the officer in charge of the
29 county jail, to the officer in charge of each city jail within the county, to each superior court
30 judge and commissioner in the county, and to the Judicial Council.

31 (g) Upon posting bail, the defendant or arrested person shall be discharged from custody as to the
32 offense on which the bail is posted.

33 All money and surety bonds so deposited with an officer authorized to receive bail shall be
34 transmitted immediately to the judge or clerk of the court by which the order was made or
35 warrant issued or bail schedule fixed. If, in the case of felonies, an indictment is filed, the judge
36 or clerk of the court shall transmit all of the money and surety bonds to the clerk of the court.

37 (h) If a defendant or arrested person so released fails to appear at the time and in the court so
38 ordered upon his or her release from custody, Sections 1305 and 1306 apply.

39
40

1 **Pen. Code, § 1463.001. Distribution**

2
3 Except as otherwise provided in this section, all fines and forfeitures imposed and collected for
4 crimes other than parking offenses, including civil traffic violations, resulting from a filing in a
5 court shall as soon as practicable after receipt thereof, be deposited with the county treasurer, and
6 each month the total fines and forfeitures which have accumulated within the past month shall be
7 distributed, as follows:

8 (a) The state penalties, county penalties, special penalties, service charges, and penalty
9 allocations shall be transferred to the proper funds as required by law.

10 (b) The base fines shall be distributed, as follows:

11 (1) Any base fines which are subject to specific distribution under any other section shall be
12 distributed to the specified funds of the state or local agency.

13 (2) Base fines resulting from county arrest not included in paragraph (1), shall be transferred into
14 the proper funds of the county.

15 (3) Base fines resulting from city arrests not included in paragraph (1), an amount equal to the
16 applicable county percentages set forth in Section 1463.002, as modified by Section 1463.28,
17 shall be transferred into the proper funds of the county. Until July 1, 1998, the remainder of base
18 fines resulting from city arrests shall be divided between each city and county, with 50 percent
19 deposited to the county's general fund, and 50 percent deposited to the treasury of the
20 appropriate city, and thereafter the remainder of base fines resulting from city arrests shall be
21 deposited to the treasury of the appropriate city.

22 (4) In a county that had an agreement as of March 22, 1977, that provides for city fines and
23 forfeitures to accrue to the county in exchange for sales tax receipts, base fines resulting from
24 city arrests not included in paragraph (1) shall be deposited into the proper funds of the county.

25 (c) Each county shall keep a record of its deposits to its treasury and its transmittal to each city
26 treasury pursuant to this section.

27 (d) The distribution specified in subdivision (b) applies to all funds subject thereto distributed on
28 or after July 1, 1992, regardless of whether the court has elected to allocate and distribute funds
29 pursuant to Section 1464.8.

30 (e) Any amounts remitted to the county from amounts collected by the Franchise Tax Board
31 upon referral by a county pursuant to Article 6 (commencing with Section 19280) of Chapter 5
32 of Part 10.2 of Division 2 of the Revenue and Taxation Code shall be allocated pursuant to this
33 section.

34
35
36 **Pen. Code, § 1464. Penalty assessment**

37
38 (a) (1) Subject to Chapter 12 (commencing with Section 76000) of Title 8 of the Government
39 Code, and except as otherwise provided in this section, there shall be levied a state penalty in the

1 amount of ten dollars (\$10) for every ten dollars (\$10), or part of ten dollars (\$10), upon every
2 fine, penalty, or forfeiture imposed and collected by the courts for all criminal offenses,
3 including all offenses, and including all civil traffic violations, except parking offenses as
4 defined in subdivision (i) of Section 1463, involving a violation of a section of the Vehicle Code
5 or any local ordinance adopted pursuant to the Vehicle Code.

6 (2) Any bail schedule adopted pursuant to Section 1269b or bail schedule adopted by the Judicial
7 Council pursuant to Section 40310 of the Vehicle Code may include the necessary amount to pay
8 the penalties established by this section and Chapter 12 (commencing with Section 76000) of
9 Title 8 of the Government Code, and the surcharge authorized by Section 1465.7, for all matters
10 where a personal appearance is not mandatory and the bail is posted primarily to guarantee
11 payment of the fine.

12 (3) The penalty imposed by this section does not apply to the following:

13 (A) Any restitution fine.

14 (B) Any penalty authorized by Chapter 12 (commencing with Section 76000) of Title 8 of the
15 Government Code.

16 (C) Any parking offense subject to Article 3 (commencing with Section 40200) of Chapter 1 of
17 Division 17 of the Vehicle Code.

18 (D) The state surcharge authorized by Section 1465.7.

19 (b) Where multiple offenses are involved, the state penalty shall be based upon the total fine or
20 bail for each case. When a fine is suspended, in whole or in part, the state penalty shall be
21 reduced in proportion to the suspension.

22 (c) When any deposited bail is made for an offense to which this section applies, and for which a
23 court appearance is not mandatory, the person making the deposit shall also deposit a sufficient
24 amount to include the state penalty prescribed by this section for forfeited bail. If bail is returned,
25 the state penalty paid thereon pursuant to this section shall also be returned.

26 (d) In any case where a person convicted of any offense, to which this section applies, is in
27 prison until the fine is satisfied, the judge may waive all or any part of the state penalty, the
28 payment of which would work a hardship on the person convicted or his or her immediate
29 family.

30 (e) After a determination by the court of the amount due, the clerk of the court shall collect the
31 penalty and transmit it to the county treasury. The portion thereof attributable to Chapter 12
32 (commencing with Section 76000) of Title 8 of the Government Code shall be deposited in the
33 appropriate county fund and 70 percent of the balance shall then be transmitted to the State
34 Treasury, to be deposited in the State Penalty Fund, which is hereby created, and 30 percent to
35 remain on deposit in the county general fund. The transmission to the State Treasury shall be
36 carried out in the same manner as fines collected for the state by a county.

37 (f) Notwithstanding any other law, the Director of Finance shall provide a schedule to the
38 Controller for all transfers of funds made available by the Budget Act from the State Penalty
39 Fund in the current fiscal year.

1 (g) Upon the order of the Department of Finance, sufficient funds may be transferred by the
 2 Controller from the General Fund for cashflow needs of the State Penalty Fund. A cashflow loan
 3 made pursuant to this provision shall be short term and does not constitute a General Fund
 4 expenditure. A cashflow loan and the repayment of a cashflow loan does not affect the General
 5 Fund reserve.

6
 7
 8
 9

Pen. Code, § 1463.28. Counties that may exceed UBPS

10 (a) Notwithstanding any other provision of law, for each option county, as defined by Section
 11 77004 of the Government Code, which has adopted the resolution specified in subdivision (b),
 12 that portion of fines, penalties, and forfeitures, whether collected by the courts or by other
 13 processing agencies, which are attributable to an increase in the bail and penalty amounts
 14 adopted subsequent to the resolution pursuant to subdivision (c) of Section 1269b which would
 15 otherwise be divided between the county and cities within the county shall be deposited into the
 16 county general fund up to the annual limit listed in subdivision (b) for that county. Fine, penalty,
 17 and forfeiture increments which exceed the specified annual limit shall be divided between the
 18 county and the cities within the county as otherwise provided by law. The scheduled bail
 19 amounts in such a county may exceed the ~~bail~~ amounts established by the Judicial Council
 20 pursuant to subdivision (c) of Section 1269b.

21 (b) The counties which may adopt a resolution directing that future increments in fines, penalties
 22 and forfeitures as specified in subdivision (a) be deposited in the county general fund and the
 23 annual limit applicable to those counties is as follows:

County	Annual Limit
Alpine	\$ 300,000
Amador	200,000
Butte	900,000
Calaveras	300,000
Contra Costa	100,000
Del Norte	200,000
Fresno	700,000

Humboldt	200,000
Kings	300,000
Lake	400,000
Lassen	200,000
Los Angeles	15,000,000
Madera	600,000
Mariposa	200,000
Mendocino	600,000
Modoc	200,000
Mono	200,000
Plumas	200,000
San Benito	300,000
San Diego	5,200,000
San Joaquin	1,000,000
Santa Clara	3,200,000
Sierra	300,000
Stanislaus	1,900,000
Sutter	800,000
Trinity	200,000

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Tulare	2,000,000
Tuolumne	400,000
Yolo	700,000
Yuba	900,000

1 (c) Except as provided in Sections 40200.3 and 40200.4 of the Vehicle Code, this section does
2 not apply to the collection of parking penalties.

3
4

5 **Pen. Code, § 1465.8. Court operations fee**

6

7 (a) (1) To assist in funding court operations, an assessment of forty dollars (\$40) shall be
8 imposed on every conviction for a criminal offense, including a traffic offense, and for civil
9 traffic violations, except parking offenses as defined in subdivision (i) of Section 1463, involving
10 a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the
11 Vehicle Code.

12 (2) For the purposes of this section, “conviction” includes the dismissal of a traffic violation on
13 the condition that the defendant attend a court-ordered traffic violator school, as authorized by
14 Sections 41501 and 42005 of the Vehicle Code. This court operations assessment shall be
15 deposited in accordance with subdivision (d), and may not be included with the fee calculated
16 and distributed pursuant to Section 42007 of the Vehicle Code.

17 (b) This assessment shall be in addition to the state penalty assessed pursuant to Section 1464
18 and may not be included in the base fine to calculate the state penalty assessment as specified in
19 subdivision (a) of Section 1464. The penalties authorized by Chapter 12 (commencing with
20 Section 76000) of Title 8 of the Government Code, and the state surcharge authorized by Section
21 1465.7, do not apply to this assessment.

22 (c) When bail is deposited for an offense to which this section applies, and for which a court
23 appearance is not necessary, the person making the deposit shall also deposit a sufficient amount
24 to include the assessment prescribed by this section.

25 (d) Notwithstanding any other law, the assessments collected pursuant to subdivision (a) shall all
26 be deposited in a special account in the county treasury and transmitted therefrom monthly to the
27 Controller for deposit in the Trial Court Trust Fund. The assessments collected pursuant to this
28 section shall not be subject to subdivision (e) of Section 1203.1d, but shall be disbursed under
29 subdivision (b) of Section 1203.1d.

30 (e) The Judicial Council shall provide for the administration of this section.

31

1
2 **Veh. Code, § 13103. Convictions**

3
4 For purposes of this division, a plea of nolo contendere or a plea of guilty or judgment of guilty,
5 whether probation is granted or not, a forfeiture of bail, a judgment for a civil traffic violation, or
6 a finding reported under Section 1816, constitutes a conviction of any offense prescribed by this
7 code, other than offenses relating to the unlawful parking of vehicles.
8

9
10 **Veh. Code, § 40000.1. Infractions**

11
12 (a) Except as otherwise provided in this article, it is unlawful and constitutes ~~an infraction~~ a civil
13 traffic violation for any person to violate or fail to comply with any provision of this code, or
14 any local ordinance adopted pursuant to this code.

15 (b) There shall be no filing fees for civil traffic violations.
16

17
18 **Veh. Code, § 40000.3. Felonies and misdemeanors**

19
20 A violation expressly declared to be a felony, or a public offense which is punishable, in the
21 discretion of the court, either as a felony or misdemeanor, or a willful violation of a court order
22 which is punishable as contempt pursuant to subdivision (a) of Section 42003, is not an
23 infraction or a civil traffic violation.
24

25
26 **Veh. Code, § 40310. Uniform traffic penalty schedule**

27
28 The Judicial Council shall annually adopt a uniform traffic penalty schedule which shall be
29 applicable to all nonparking ~~infractions~~ civil traffic violations specified in this code, unless in a
30 particular case before the court the judge or authorized hearing officer specifies a different
31 penalty. No penalty shall be established for any ~~infraction~~ civil traffic violation in an amount,
32 exclusive of any additional penalty levied pursuant to Section 1464 of the Penal Code, in excess
33 of the amount of the maximum fine pursuant to Section 42001 or 42001.5, and penalties shall be
34 set without regard to residence. ~~In case a traffic penalty is not paid within 20 days following~~
35 ~~mailing of a notice that the penalty has been assessed, a late charge shall be due in the amount of~~
36 ~~50 percent of total initial penalty.~~

37 In establishing a uniform traffic penalty schedule, the Judicial Council shall classify the offenses
38 into ~~four or fewer~~ penalty categories, according to the severity of offenses.
39

1 ~~Veh. Code, § 40518. Notice to appear for specified traffic offenses; Notice of nonliability~~

2
3 ~~(a) Whenever a written notice to appear has been issued by a peace officer or by a qualified~~
4 ~~employee of a law enforcement agency on a form approved by the Judicial Council for an~~
5 ~~alleged violation of Section 22451, or, based on an alleged violation of Section 21453, 21455, or~~
6 ~~22101 recorded by an automated traffic enforcement system pursuant to Section 21455.5 or~~
7 ~~22451, and delivered by mail within 15 days of the alleged violation to the current address of the~~
8 ~~registered owner of the vehicle on file with the department, with a certificate of mailing obtained~~
9 ~~as evidence of service, an exact and legible duplicate copy of the notice when filed with the~~
10 ~~magistrate shall constitute a complaint to which the defendant may enter a plea. Preparation and~~
11 ~~delivery of a notice to appear pursuant to this section is not an arrest.~~

12
13 ~~(b) (1) A notice to appear shall contain the name and address of the person, the license plate~~
14 ~~number of the person's vehicle, the violation charged, including a description of the offense, and~~
15 ~~the time and place when, and where, the person may appear in court or before a person~~
16 ~~authorized to receive a deposit of bail. The time specified shall be at least 10 days after the notice~~
17 ~~to appear is delivered. If, after the notice to appear has been issued, the citing peace officer or~~
18 ~~qualified employee of a law enforcement agency determines that, in the interest of justice, the~~
19 ~~citation or notice should be dismissed, the citing agency may recommend, in writing, to the~~
20 ~~magistrate or the judge that the case be dismissed. The recommendation shall cite the reasons for~~
21 ~~the recommendation and be filed with the court. If the magistrate or judge makes a finding that~~
22 ~~there are grounds for dismissal, the finding shall be entered on the record and the infraction~~
23 ~~dismissed.~~

24
25 ~~(2) A notice to appear shall also contain all of the following information:~~

26
27 ~~(A) The methods by which the registered owner of the vehicle or the alleged violator may view~~
28 ~~and discuss with the issuing agency, both by telephone and in person, the evidence used to~~
29 ~~substantiate the violation.~~

30
31 ~~(B) The contact information of the issuing agency.~~

32
33 ~~(c) (1) This section and Section 40520 do not preclude the issuing agency or the manufacturer or~~
34 ~~supplier of the automated traffic enforcement system from mailing a notice of nonliability to the~~
35 ~~registered owner of the vehicle or the alleged violator prior to issuing a notice to appear. The~~
36 ~~notice of nonliability shall be substantively identical to the following form:~~

37
38
39 ~~*****~~
40

1
2 ~~NOTICE OF INCOMPLETE TEXT: Forms relating to the Notice of~~
3 ~~Nonliability appear in the hard copy publication of the chaptered bill.~~
4 ~~See Sec. 4, Chapter 735 (pp. 7-8), Statutes of 2012.~~
5

6
7 ~~*****~~
8

9 ~~(2) The form specified in paragraph (1) may be translated to other languages.~~

10 ~~(a) A manufacturer or supplier of an automated traffic enforcement system or the governmental~~
11 ~~agency operating the system shall not alter the notice to appear or any other form approved~~
12 ~~by the Judicial Council. If a form is found to have been materially altered, the citation based~~
13 ~~on the altered form may be dismissed.~~
14

15
16 ~~**Veh. Code, § 40520. Notice to appear for specified traffic offenses; Notice of nonliability**~~
17

18 ~~(a) A notice to appear issued pursuant to Section 40518 for an alleged violation recorded by an~~
19 ~~automatic enforcement system shall contain, or be accompanied by, an affidavit of nonliability~~
20 ~~and information as to what constitutes nonliability, information as to the effect of executing the~~
21 ~~affidavit, and instructions for returning the affidavit to the issuing agency.~~

22 ~~(b) (1) If a notice to appear is sent to a car rental or leasing company, as the registered owner of~~
23 ~~the vehicle, the company may return the notice of nonliability pursuant to paragraph (2), if the~~
24 ~~violation occurred when the vehicle was either leased or rented and operated by a person other~~
25 ~~than an employee of the rental or leasing company.~~

26 ~~(2) If the affidavit of nonliability is returned to the issuing agency by the registered owner within~~
27 ~~30 days of the mailing of the notice to appear together with the proof of a written rental~~
28 ~~agreement or lease between a bona fide renting or leasing company and its customer and that~~
29 ~~agreement identifies the renter or lessee and provides the driver's license number, name, and~~
30 ~~address of the renter or lessee, the agency shall cancel the notice for the registered owner to~~
31 ~~appear and shall, instead, issue a notice to appear to the renter or lessee identified in the affidavit~~
32 ~~of nonliability.~~

33 ~~(c) Nothing in this section precludes an issuing agency from establishing a procedure whereby~~
34 ~~registered owners, other than bona fide renting and leasing companies, may execute an affidavit~~
35 ~~of nonliability if the registered owner identifies the person who was the driver of the vehicle at~~
36 ~~the time of the alleged violation and whereby the issuing agency issues a notice to appear to that~~
37 ~~person.~~

1
2 **Veh. Code, § 40650. Definitions**

3
4 Unless the provision or context otherwise requires, these definitions shall govern the
5 construction of this code.

6 (a) “Infractions” include civil traffic violations for purposes of this code.

7 (b) “Notice to appear” includes a notice of civil traffic violation for citing purposes, except that
8 no warrant may issue for failure to appear on a civil traffic violation.

9 (c) The “Uniform Penalty Schedule” means the penalty schedule for eligible offenses established
10 pursuant to 1269b of the Penal Code and adopted by the Judicial Council.

11 (1) This definition shall apply when, as specified in Penal Code section 1463.28, courts exercise
12 their authority to exceed the total amounts listed in the Uniform Penalty Schedule.

13 (d) A “judgment” includes the total amount due as set forth for eligible offenses established
14 pursuant to the Uniform Penalty Schedule, including the base fine, all assessments, surcharges,
15 and penalty amounts, as well as any other consequences that may be ordered by the court.

16 (e) A “notice of violation” means a notice of civil of traffic violation.

17 (f) An “arrest” as used in connection with an infraction includes a notice of violation for a civil
18 traffic violation for purposes of collections and distribution of fines, fees, and assessments.

19
20
21 **Veh. Code, § 40660. Civil traffic violations**

22
23 (a) Unless otherwise provided in this code, it is unlawful and constitutes a civil traffic violation
24 for any person to violate or fail to comply with any provision of this code.

25 (b) A judgment finding a person responsible for a civil traffic violation may be treated in the
26 same manner as a conviction for an infraction for purposes of this code.

27 (c) A defendant’s response to a civil traffic violation that results in a judgment may be treated in
28 the same manner as a plea or a finding of guilt for an infraction that results in a conviction.

29
30
31 **Veh. Code, § 40662. Law enforcement authority to stop**

32
33 (a) Except as provided in subdivision (b), a peace officer may stop and temporarily detain any
34 person for the purpose of investigating a civil traffic violation, identifying a person suspected of
35 committing a civil traffic violation, and issuing a notice of violation.

36 (b) The authority of a peace officer under subdivision (a) shall be no greater than that of a peace
37 officer to stop and detain a person suspected of committing a criminal offense.

1 **Veh. Code, § 40664. Procedure to verify identity**
2

- 3 (a) A person under investigation for a civil traffic violation shall present both a driver's license
4 or other satisfactory evidence of identity, and an unobstructed view of their full face for
5 examination.
6 (b) A person who fails to comply with subdivision (a) may be detained at the most accessible
7 county or city jail or other place of detention within the county for a reasonable period of
8 time, not to exceed two hours, in order to verify identity.
9 (c) If the person does not have a driver's license or other satisfactory evidence of identity in their
10 possession, the officer may require the person to place a right thumbprint, or a left
11 thumbprint or fingerprint if the person has a missing or disfigured right thumb, on the notice
12 of violation. Except for law enforcement purposes relating to the identity of the person, no
13 person or entity may sell, give away, allow the distribution of, include in a database, or create
14 a database with this print.
15 (d) A peace officer may request a person to whom a notice of violation is issued to sign the
16 notice. The person is not required to sign the notice of violation.
17 (e) A person contesting an alleged violation by claiming under penalty of perjury not to be the
18 person issued the notice of violation may submit a right thumbprint, or a left thumbprint if
19 the person has a missing or disfigured right thumb, to the issuing court through their local
20 law enforcement agency for comparison with the one placed on the notice of violation. When
21 there is no thumbprint or fingerprint on the notice of violation, or when the comparison of
22 thumbprints is inconclusive, the court shall refer the notice of violation or copy thereof back
23 to the issuing agency for further investigation, unless the court finds that referral is not in the
24 interest of justice.
25
26

27 **Veh. Code, § 40666. Notice of civil traffic violation (Summons)**
28

- 29 (a) A notice of violation shall constitute the summons and notice of violation.
30 (1) Service of the notice of violation shall be effected by the officer personally delivering the
31 notice of violation to the defendant when reasonably practicable.
32 (2) When service cannot be made under subparagraph (1), service of the notice of violation shall
33 be effected as provided in Sections 40680 and 40684.
34 (b) A notice of violation that has been prepared, served and filed by a peace officer with the
35 court shall constitute a complaint to which the defendant may respond.
36 (c) A notice of violation that has been personally served, when filed with the court and verified
37 by the peace officer delivering the notice, is prima facie evidence of service.
38 (d) Any person, including the issuing officer and any member of the officer's department or
39 agency, or any peace officer, who alters, conceals, modifies, nullifies, or destroys, or causes
40 to be altered, concealed, modified, nullified, or destroyed, the face side of the remaining
41 original or any copy of a notice of violation that was retained by the officer, for any reason,
42 before it is filed with the court, is guilty of a misdemeanor.

1 (e) If, after a defendant has received a notice of violation and the notice of violation has been
2 filed with the court, the issuing officer or other officer of the issuing agency, determines that,
3 in the interest of justice, the matter should be dismissed, the issuing agency may recommend,
4 in writing, to the court that the case be dismissed. The recommendation shall give the reasons
5 for the recommendation. If the court makes a finding that there are grounds for dismissal, the
6 finding shall be entered on the record and the matter dismissed.
7
8

9 **Veh. Code, § 40668. Contents of notice of civil traffic violation**
10
11

- 12 (a) Whenever a person is cited for a civil traffic violation, the citing officer shall prepare a notice
13 of violation, containing the name and address of the person, the license number of their
14 vehicle, if any, the name and address, when available, of the registered owner or lessee of the
15 vehicle, the offense charged, and a notice that the defendant shall contact the court within 60
16 calendar days from the date of service.
17 (b) The issuing officer shall verify the notice of violation and attest to the manner and date of
18 service.
19 (c) The Judicial Council shall prescribe the form of the notice of violation.
20 (d) Once the citing officer has prepared the notice of violation, and has delivered a copy to the
21 cited person, the officer shall deliver the remaining original and all copies of the notice of
22 violation as provided by section 40666 as soon as practical.
23
24

25 **Veh. Code, § 40670. Authority of public prosecutor**
26

- 27 (a) The public prosecutor may attend the courts and, within his or her discretion, may initiate and
28 conduct on behalf of the people prosecutions for all civil traffic violations. The public prosecutor
29 may delegate the authority to initiate a case to a law enforcement agency.
30 (b) A district attorney, city attorney, or any combination thereof may, in agreement with other
31 district attorneys or city attorneys, act jointly in prosecuting a civil traffic violation
32
33

34 **Veh. Code, § 40672. Civil Traffic violations combined with criminal matters**
35

- 36 (a) If a defendant is alleged to have committed a civil traffic violation in the same transaction or
37 occurrence with a criminal offence or offenses, and the charging document reflects both civil
38 traffic violations and criminal offenses, the court shall utilize the procedures, and the
39 defendant shall have the rights, applicable to the criminal offense(s), in lieu of procedures for
40 civil traffic violations.
41 (b) When a defendant has been charged with a civil traffic violation and with a public offense for
42 which there is a right to jury trial and a jury trial is not waived, the court may order that the

- 1 offenses be tried together by jury or that they be tried separately with the civil traffic
2 violation being tried by the court either in the same proceeding or a separate proceeding.
3 (c) Notwithstanding section (a), no warrant shall issue for a failure to appear on a case involving
4 only a civil traffic violation.
5
6

7 **Veh. Code, § 40674. Misdemeanor offenses that may be civil traffic violations**
8

- 9 (a) A violation of (c) of Section 23109 and Sections 5201.1, 12500, 14601.1, 27150.1, 40508,
10 and 42005 of this code may be alleged as either a civil traffic violation or a misdemeanor.
11
12

13 **Veh. Code, § 40676. Reminder notice**
14

- 15 (a) As soon as practical, a court shall send a reminder notice in the manner described in section
16 40724.
17 (b) The Judicial Council shall adopt a rule of court specifying the requirements for the contents
18 of a reminder notice.
19 (c) The Judicial Council may prescribe the form for the reminder notice.
20
21

22 **Veh. Code, § 40678. Response to notice of violation**
23

- 24 (a) A defendant shall respond to a notice of violation within 60 calendar days of service.
25 (b) A defendant may respond to a notice of violation by:
26 (1) Admitting responsibility.
27 (2) Consenting to the entry of judgment, without admitting responsibility, which shall have the
28 same effect as if the person had admitted responsibility for the violation.
29 (3) Contesting the violation by requesting a trial.
30 (c) A clerk may enter and receive a defendant's response.
31 (d) A defendant's response shall not be received into evidence as an admission in any other
32 proceeding based on or arising out of the act or omission on which the civil traffic violation
33 is based.
34 (e) A defendant may request an extension of the time to respond under (a). A court, by local rule,
35 may authorize the clerk to grant extensions.
36
37

38 **Veh. Code, § 40680. Red light camera violations**
39

- 40 (a) Whenever a notice of violation has been issued by a peace officer or by a qualified employee
41 of a law enforcement agency based on an alleged violation of Section 21453, 21455, or 22101
42 recorded by an automated traffic enforcement system pursuant to Section 21455.5 or 22451, and
43 sent within 15 days of the alleged violation to the current address of the registered owner of the

1 vehicle on file with the department, with a certificate of sending as evidence of service, the
2 original or an exact and legible duplicate copy of the notice when filed with the court shall
3 constitute a complaint to which the defendant may respond.

4 (b) (1) A notice of violation served under this section shall, in addition to containing the
5 information required under Section (a) 40668, inform the person how to respond to the notice of
6 violation.

7 (2) The notice shall prominently specify the time in which the person must respond. The time
8 specified shall be 60 days after the notice of violation is sent. It shall also inform the person that
9 unless he or she responds within the time allowed, renewal or transfer of registration of the
10 vehicle involved in the violation may be precluded by the department.

11 (3) A notice of violation shall also contain all of the following information:

12 (A) The methods by which the registered owner of the vehicle or the alleged violator may view
13 and discuss with the issuing agency, both by telephone and in person, the evidence used to
14 substantiate the violation.

15 (B) The contact information of the issuing agency.

16 (c) A notice of violation under this section is deemed served when sent.

17 (d) A manufacturer or supplier of an automated traffic enforcement system or the governmental
18 agency operating the system shall not alter the notice of violation or any other form approved by
19 the Judicial Council. If a form is found to have been materially altered, the violation based on the
20 altered form may be dismissed.

21
22
23 **Veh. Code, § 40682. Notice and affidavit of nonliability**
24

25 (a) (1) A notice of violation issued pursuant to section 40680 for an alleged violation recorded by
26 an automatic enforcement system shall contain, or be accompanied by, an affidavit of
27 nonliability and a notice of nonliability providing information as to what constitutes nonliability,
28 information as to the effect of executing the affidavit, and instructions for returning the affidavit
29 to the issuing agency. The notice and affidavit of nonliability shall be on a form approved by the
30 Judicial Council.

31 (2) This section and Section 40680 do not preclude the issuing agency or the manufacturer or
32 supplier of the automated traffic enforcement system from sending a notice of nonliability to the
33 registered owner of the vehicle or the alleged violator prior to issuing a notice of violation.

34 (3) The form specified in paragraph (1) may be translated to other languages.

35 (b) (1) If a notice of violation is sent to a car rental or leasing company, as the registered owner
36 of the vehicle, the company may return the affidavit of nonliability pursuant to paragraph (2), if
37 the violation occurred when the vehicle was either leased or rented and operated by a person
38 other than an employee of the rental or leasing company.

39 (2) If the affidavit of nonliability is returned to the issuing agency by the registered owner

1 within 30 days of the mailing of the notice of violation together with the proof of a rental
2 agreement or lease between a bona fide renting or leasing company and its customer and that
3 agreement identifies the renter or lessee and provides the driver's license number, name, and
4 address of the renter or lessee, the agency shall cancel the notice of violation for the registered
5 owner and shall, instead, issue a notice of violation to the renter or lessee identified in the
6 affidavit of nonliability.

7 (c) Nothing in this section precludes an issuing agency from establishing a procedure whereby
8 registered owners, other than bona fide renting and leasing companies, may execute an affidavit
9 of nonliability if the registered owner identifies the person who was the driver of the vehicle at
10 the time of the alleged violation and whereby the issuing agency issues a notice of violation to
11 that person.

12
13
14 **Veh. Code, § 40684. Service not by personal delivery**

15
16 (a) Whenever a notice of violation, other than as specified in section 40680, has been issued by a
17 peace officer and cannot be served in the manner described in subdivision (a)(1) of section
18 40666, the notice may be sent to the current address of the person on file with the department.
19 An exact and legible duplicate copy of the notice, with a certificate of sending as evidence of
20 service, when filed with the court shall constitute a complaint to which the defendant may
21 respond.

22 (b) (1) A notice of violation served under this section shall, in addition to containing the
23 information required under Section 40666, inform the person how to respond to the notice of
24 violation.

25 (2) The notice shall prominently specify the time in which the person must respond. The time
26 specified shall be 60 days after the notice of violation is sent. It shall also inform the person that
27 unless he or she responds within the time allowed, renewal or transfer of registration of the
28 vehicle involved in the violation may be precluded by the department.

29 (c) A notice of violation under this section is deemed served when sent.
30

31
32 **Veh. Code, § 40686. Notice of noncompliance**

33
34 (a) If a person fails to respond within the time allowed to the notice of violation served under
35 Sections 40680 or 40684, the court may send to the person a notice of noncompliance and a
36 default shall not be entered except as provided in section 40688.

37 (b) A notice of noncompliance shall include a paragraph that informs the person that unless he
38 or she responds to the court within 21 days after sending of the notice of noncompliance, renewal
39 or transfer of registration of the vehicle involved in the violation may be precluded by the
40 department.

1 (c) A notice of noncompliance shall be sent to address shown on the notice of violation.
2
3

4 **Veh. Code, § 40688. Proceedings after notice of noncompliance; Transmittal to**
5 **department**
6

7 (a) Whenever a person has failed to respond to the court within the time specified in the notice of
8 noncompliance, the court may give notice of that fact to the department. The department shall
9 refuse to renew or transfer the registration of a vehicle for which a notice of noncompliance has
10 been transmitted to the department.

11 (1) The department shall include on each potential registration card issued for use at the time of
12 renewal, or on an accompanying document, an itemization of notices of violation for which
13 notices of noncompliance have been received by the department pursuant to this section. The
14 itemization shall include the notice of violation number, date of the notice, and the
15 jurisdiction that issued the underlying notice and the administrative service fee for clearing
16 the action pursuant to this section.

17 (2) The department shall not refuse to renew the registration of a vehicle if the notice of
18 violation was issued prior to the registered owner taking possession of the vehicle.

19 (c) A person who has been given notice of noncompliance may respond to the violation as
20 provided in subdivision (b) of Section 40666 or file a promise to respond to the violation.

21 (1) A person who has responded to a violation or made a promise to respond under this section
22 is no longer in noncompliance.

23 (2) A promise to respond shall contain notice that failure to respond to the violation within ten
24 days shall result in entry of default and a judgment imposing a civil penalty. The court may
25 prescribe the form of a promise to respond, and, by local rule, may allow for additional
26 means of making a promise to respond.

27 (c) After the court has given notice to the department under subdivision (a), the court shall
28 notify the department when the person is no longer in noncompliance.

29 (d) Upon application for renewal or transfer of vehicle registration for a vehicle subject to
30 subdivision (a), the department shall not refuse registration renewal or transfer pursuant to
31 subdivision (a) if the department has received the notice from the court that the person is no
32 longer in noncompliance and the person pays an administrative service fee, which shall be
33 established by the department to, in the aggregate, defray its costs in administering this section.

34 (e) When a person who has made a promise to respond to a violation under subdivision (b) fails
35 to respond to the violation within ten days, the court may enter the default of the person and
36 conduct proceedings as set forth in Section 40706.
37
38

1 **Veh. Code, § 40690. Request for trial**

- 2
- 3 (a) The defendant may request a trial without appearing in court or making an advance payment
- 4 or deposit of any penalties or fees.
- 5 (b) The court may allow the request to be made in person, online, in writing, and through any
- 6 additional method the court authorizes.
- 7 (c) A defendant may request the trial occur within 60 days. Failure to provide a trial within 60
- 8 days will not result in dismissal, absent a showing of prejudice.
- 9

10

11 **Veh. Code, § 40692. Continuances**

12

13 A party may request a continuance of a court date. A court may, by local rule, authorize the clerk

14 to grant continuances.

15

16

17 **Veh. Code, § 40694. Appearing through counsel**

- 18
- 19 (a) Except as provided in subdivision (b), a defendant may appear at any proceeding on a civil
- 20 traffic violation through counsel. A defendant has no right to an attorney appointed at public
- 21 expense.
- 22 (b) A defendant contesting the issue of identity must personally appear at trial on a civil traffic
- 23 violation, unless otherwise ordered by the court.
- 24

25

26 **Veh. Code, § 40696. In-person trial**

- 27
- 28 (a) Trial of a civil traffic violation shall be by the court.
- 29 (b) If the defendant fails to appear for trial of a civil traffic violation, the court may strike the
- 30 request for trial and direct the clerk to enter the defendant's default, or the court may conduct
- 31 a trial in the defendant's absence. If the court elects to hold the trial in the defendant's
- 32 absence, testimony and other relevant admissible evidence under VC 40700 may be
- 33 introduced.
- 34 (c) Absent a showing of good cause, if no witness against the defendant appears and the
- 35 defendant appears for trial, the court shall dismiss the case with prejudice.
- 36

37

38 **Veh. Code, § 40698. Burden of proof**

- 39
- 40 (a) For civil traffic violations, the burden of proof at trial and to establish identity shall be
- 41 preponderance of the evidence.
- 42
- 43

1 **Veh. Code, § 40700. Evidentiary standards**

- 2
- 3 (a) A trial of a civil traffic violation need not be conducted according to technical rules relating
4 to evidence and witnesses, except as hereinafter provided. Any relevant evidence may be
5 admitted if it is the sort of evidence on which responsible persons are accustomed to rely in
6 the conduct of serious affairs, regardless of the existence of any common law or statutory
7 rule which might make improper the admission of the evidence over objection in civil
8 actions.
- 9 (b) Oral evidence shall be taken only on oath or affirmation.
- 10 (c) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to
11 cross-examine opposing witnesses on any matter relevant to the issues even though that
12 matter was not covered in the direct examination; to impeach any witness regardless of which
13 party first called him or her to testify; and to rebut the evidence against him or her.
- 14 (d) A judicial officer may consider hearsay evidence which is reliable and trustworthy. A fact
15 necessary to establish the truth of a civil traffic violation may not be proved solely by hearsay
16 evidence unless the evidence would be admissible in a civil action over objection.
- 17 (e) The rules of privilege shall be effective.
- 18 (f) A judicial officer has discretion to exclude evidence if its probative value is substantially
19 outweighed by the probability that its admission will necessitate undue consumption of time.
- 20 (g) The court may take judicial notice of any fact which may be judicially noticed by the courts
21 of this state.
- 22 (h) The defendant may not be compelled to testify.
- 23 (i) The court shall apply these rules of evidence without the necessity of an objection.
- 24
- 25

26 **Veh. Code, § 40702. Online adjudication**

- 27
- 28 (a) A court may offer online management, scheduling and adjudication of civil traffic violations,
29 including allowing a defendant to do any of the following:
- 30 (1) Respond to the notice of violation.
- 31 (2) Provide a change of address.
- 32 (3) Pay the total amount due or installments.
- 33 (4) Conduct an online trial.
- 34 (5) Submit a promise to respond after service of a notice of noncompliance.
- 35 (6) Request:
- 36 (A) A payment plan.
- 37 (B) A trial or an online trial.
- 38 (C) An extension.
- 39 (D) Continuance of trial or other proceeding.
- 40 (E) A date to appear in court.
- 41 (F) Traffic violators school under Section 42007.
- 42 (G) An ability-to-pay determination under section 40718.
- 43 (b) A defendant may not be compelled to use online management, scheduling and adjudication.
- 44

1
2 **Veh. Code, § 40704. Optional disposition-only hearing**
3

- 4 (a) When all violations have been adjudicated, a court may allow a defendant to request a
5 hearing solely regarding the amount of any civil penalty.
6 (b) A hearing pursuant to subdivision (a) may be in person, online, or in any other manner the
7 court deems is appropriate.
8
9

10 **Veh. Code, § 40706. Entry of default**
11

- 12 (a) The clerk shall enter the default of a defendant who does any of the following:
13 (1) Fails to respond within the time allowed to the notice of violation after personal service.
14 (2) Fails to respond within the time allowed after making a promise to respond.
15 (3) Fails to appear at trial or any pretrial proceeding requiring an appearance.
16 (b) The clerk shall provide the defendant notice of the entry of default. The notice must inform
17 the defendant of all of the following:
18 (1) The total amount listed in the Uniform Penalty Schedule.
19 (2) Nonmonetary consequences, if any, which may be ordered in the judgment.
20 (3) That the court will enter a judgment imposing a civil penalty in that amount, and if
21 applicable, for other identified consequences unless the defendant files a motion to set aside the
22 default.
23 (4) The right to move to set aside the default.
24 (5) The procedures to move to set aside the default.
25
26

27 **Veh. Code, § 40708. Set aside of default**
28

- 29 (a) A defendant may file a motion to set aside the default. Upon a showing of good cause, the
30 court may grant the motion.
31 (b) Within 30 days after the clerk has mailed notice of the entry of the default, a motion to set
32 aside may be filed, unless either of the following circumstances exist:
33 (1) If the defendant demonstrates that the motion has been brought with reasonable diligence, the
34 motion to set aside may be filed within 180 days after the clerk has mailed notice of entry of
35 default.
36 (2) If there is an issue of identity, a motion to set aside may be filed within 180 days after the
37 defendant discovers or should have discovered that default was entered.
38 (c) A defendant who has made a motion to set aside a default is deemed to have made a motion
39 to vacate a judgment subsequently entered on that default and may not bring a motion to vacate.
40 (d) A defendant who has made a motion to set aside a default may contest the denial of that
41 motion by appealing from a judgment subsequently entered on that default.
42
43

1 **Veh. Code, § 40710. Entry of judgment**
2
3

4 (a) If the clerk has received the defendant’s response admitting a civil traffic violation, including
5 an admission submitted online, the court shall render judgment against the defendant and impose
6 a civil penalty in the amount listed in the Uniform Penalty Schedule.

7 (1) If the judgment is only for a civil penalty, the judgment may be issued by the clerk.

8 (2) If the potential disposition includes any nonmonetary consequences, the judgment shall be
9 issued by a judicial officer.

10 (b) If the clerk has entered a default pursuant to subdivision (a) of Section 40706, and the
11 defendant has been served with the notice of the entry of default pursuant to subdivision (b) of
12 Section 40706, and the defendant fails to make a motion to set aside the default within 30 days
13 after the clerk has mailed notice of the entry of default, the court shall render judgment against
14 the defendant and impose a civil penalty in the amount listed in the Uniform Penalty Schedule.

15 (1) If the judgment is only for a civil penalty, the judgment may be issued by the clerk.

16 (2) If the judgment includes any nonmonetary consequences, as contained in the notice of entry
17 of default pursuant to 40706(b)(2), the judgment shall be issued by a judicial officer.

18 (c) The judicial officer, in imposing a civil penalty, shall consider the Uniform Penalty Schedule
19 but in a particular case may impose a different penalty.

20 (d) The clerk shall give notice of the entry of the judgment. When judgment has been entered
21 after default, the notice must inform the defendant of the right and procedure to move to vacate
22 the judgment.

23
24
25
26 **Veh. Code, § 40712. Vacating the judgment**

27
28 (a) Except as provided in subdivision (c) of 40708, a defendant may file a motion to vacate a
29 judgment entered after default or where the defendant has failed to appear at trial. Upon a
30 showing of good cause, the court may grant the motion.

31 (b) A motion to vacate the judgment may be filed:

32 (1) Within 30 days after the clerk has mailed notice of entry of the judgment, except the court
33 may hear and grant a motion filed within 180 days after the clerk has mailed notice of entry of
34 judgment if the defendant demonstrates that the motion has been brought with reasonable
35 diligence.

36 (2) In instances where there is an issue of identity, within 180 days after the defendant discovers
37 or should have discovered that judgment was entered.

38 (c) If the court grants the motion to vacate the judgment, it may also set aside the default.
39
40

1 **Veh. Code, § 40714. Dual disposition**

2
3 (a) For a civil traffic violation, any penalty or consequence imposed by the court for an act or
4 omission that may be prosecuted in different ways under different provisions of law shall be
5 under the provision that provides for the greatest penalty or consequence and not under more
6 than one provision of law. When a separate penalty or consequence is barred under this
7 subdivision, a court may stay the prohibited penalty or dismiss the corresponding civil traffic
8 violations.

9 (b) A final adjudication of a civil traffic violation shall bar a separate or subsequent prosecution
10 for the same or another civil traffic violation based on the same act or omission.

11 (c) An acquittal or conviction and sentence of a criminal offense shall bar a subsequent
12 prosecution and judgment for a civil traffic violation, if the civil traffic violation is based on the
13 same act or omission as the criminal offense.

14
15
16 **Veh. Code, § 40716. Payment in installments**

17
18
19 (a) If the defendant pays installments for the civil penalty, the defendant shall pay to the clerk or
20 the collecting agency a fee for the processing of installment accounts. This fee shall equal the
21 administrative and clerical costs, as determined by the board of supervisors or by the court,
22 except that the fee shall not exceed thirty-five dollars (\$35). The clerk may receive payments
23 in person, online, over the telephone, or through any other method the court authorizes.

24
25
26 **Veh. Code, § 40718. Ability to pay**

27
28 (a) A judgment imposing a civil penalty for the commission of a civil traffic violation may be
29 ordered paid forthwith, within a specified time, or in specified payments.

30 (b) The court, upon request of the defendant, shall consider the defendant's ability to pay a
31 judgment on a civil traffic violation. The court shall have the discretion to make an order
32 consistent with the defendant's present and reasonably discernible future financial
33 circumstances. A defendant shall bear the burden of demonstrating lack of their ability to
34 pay. Express findings by the court as to the factors bearing on the amount of the fine shall not
35 be required.

36 (c) Based on any ability-to-pay determination, a court may do any of the following:

37 (1) Waive or reduce the total amount due for a judgment of a civil traffic violation.

38 (2) Extend the time for payment or provide for payment on an installment plan, including those
39 amounts due after any reduction under paragraph (1).

40 (3) Allow the defendant to complete community service in lieu of the total amount due. If a
41 defendant qualifies for a reduction in the total amount due, the court may allow the defendant to
42 complete the community service in lieu of the payment on the reduced amount.

1 (4) Suspend the total amount due in whole or in part.

2 (5) Offer an alternative disposition.

3 (d) A court may, by adopting a local rule, authorize the clerk of the court to make ability-to-pay
4 determinations. If a court authorizes the clerk of the court to make those determinations, the
5 following shall apply:

6 (1) The determinations shall be based on specified criteria as established by the court and posted
7 on its website. The criteria may include whether the defendant is receiving public benefits,
8 including those listed in subdivision (a) of Section 68632 of the Government Code. The court
9 may establish criteria that waive or reduce the amount owed by the defendant, by a specified
10 amount, by a specified percentage, or by other specified criteria.

11 (2) The court shall obtain the defendant's consent for the clerk to make the determination.

12 (3) A defendant shall have the right to a review by a judicial officer of any ability-to-pay
13 determination made pursuant to subdivision (b) upon a written request made within 10 days
14 of the determination.

15 (4) The court shall give the defendant notice accompanying the determination, that the
16 determination has been reached by the clerk of the court through use of a formula adopted by
17 the court, that the defendant has the right to a review of the ability-to-pay determination by a
18 judicial officer.

19 (e) A defendant may request an initial ability to pay determination only after admitting
20 responsibility, or being found responsible for the civil traffic violation and while a civil penalty
21 has not been ordered or the amount ordered remains unpaid.

22 (f) After an initial ability-to-pay determination, a defendant may only make additional ability-to-
23 pay requests upon a showing of changed circumstances.

24
25
26 **Veh. Code, § 40720. Late fee/Failure to pay penalty**

27
28 (a) The court may, adopt a schedule of late fees for civil traffic violations. The schedule may
29 provide for a late fee not to exceed \$60.

30 (1) The court shall make the late fee schedule available on the court's website.

31 (b) After a civil penalty has been imposed, the court may give notice that a late fee may be
32 imposed if the civil penalty is not paid when due. This notice may appear in the notice of entry of
33 judgment. A late fee shall not be imposed until sixty (60) calendar days after the notice is given.

34
35
36 **Veh. Code, § 40722. Appeal**

37
38
39 (a) An appeal for civil traffic violations may be taken in the following cases:

40 (1) From a final judgment.

41 (2) From an order denying a motion to vacate judgment.

42 (3) From an ability-to-pay determination.

1 (b) The appeal shall be heard in the appellate division of the superior court of the county in
2 which the court from which the appeal is taken is located. Appeals from civil traffic violations
3 may be heard and decided by one judge.

4 (c) There shall be no filing fee for filing a notice of appeal.
5

6 **Veh. Code, § 40724. Notice**
7

8 (a) Any notice required by this chapter may be sent to the defendant’s address shown on the
9 notice of violation. Such notice shall be presumed to give actual notice to the defendant. If the
10 defendant provides the court a different address, a notice sent to that address will be presumed to
11 give actual notice to the defendant.

12 (b) A defendant may request that notice be given electronically, including by electronic mail or
13 text message, where available, in which case a notice sent in the requested form shall be
14 presumed to give actual notice to the defendant.

15 (c) If a defendant provides an electronic address or telephone number to the peace office at the
16 time of the notice of violation, that shall be deemed consent to receive notice electronically. Law
17 enforcement officers are not required to obtain electronic addresses or telephone numbers.

18 (d) A notice of change of address shall be made in writing or any other form the court accepts.
19
20

21 **Veh. Code, § 40726. Reporting the judgment to the department**
22

23 (a) The court shall report a judgment finding the defendant responsible for a civil traffic violation
24 to the department as a conviction, and the date of the conviction shall be reported as the date of
25 the entry of judgment.

26 (b) A judgment entered under this section may be amended for good cause. Good cause may
27 include the granting of an ability to pay determination or request for payments. An amendment
28 of the judgment that only affects the penalty or other consequence ordered by the court, and not
29 an adjudication of responsibility, shall not be reported to the department.

30 (c) Notwithstanding subdivision (a), after an admission or a finding of responsibility, a court may
31 order a continuance of a proceeding against a person for an eligible violation of a statute relating
32 to the safe operation of a vehicle, in consideration for successful completion of a course of
33 instruction at a licensed school for traffic violators and pursuant to Section 1803.5 or 42005, the
34 court may order that the conviction be held confidential by the department in accordance with
35 Section 1808.7. The court shall notify a person that only one conviction within 18 months will be
36 held confidential.
37
38

39 **Veh. Code, § 40728. Past violations**
40

41 (a) The provisions of this section/chapter shall become effective January 1, 2022

42 (b) A violation alleged as an infraction under this code for which as of January 1, 2022 no final
43 judgment has been entered may be converted by the court to a civil traffic violation. As of

1 January 1, 2022, at the request of the defendant, a court shall convert such an unadjudicated
2 infraction to a civil traffic violation.

3 (c) An infraction under this code which has been adjudicated and a final judgment entered shall
4 not be converted to a civil traffic violation.

5 (d) An infraction that is converted to a civil traffic violation under this section shall be
6 considered a civil traffic violation for all purposes. An infraction converted to civil traffic
7 violation shall be adjudicated by the procedures applicable to civil traffic violations after it is
8 converted.

9 (e) In no instance shall this section result in the imposition of a greater financial obligation than
10 for the original infraction.

11 (f) Fines, fees and assessments imposed for an infraction or civil penalties imposed for a civil
12 traffic violation may be enforced in the manner provided for the enforcement of money
13 judgments generally.

14
15 **Veh. Code, § 40730. Outstanding civil assessments**

16
17 (a) As of date, Jan 1, 2022, a court may not order an assessment under Penal Code section
18 1214.1 for an infraction or civil traffic violation.

19 (b) As of date, Jan 1,2022 a court may not enforce an order imposing an assessment under Penal
20 Code section 1214.1 for an infraction.

21 (c) In lieu of an assessment which is made unenforceable under subdivision (b), a court may
22 order a late fee pursuant to section [late fee statute], except that such a late fee may not
23 exceed the unpaid amount of the assessment which was ordered.

24
25
26 **Veh. Code, § 40732. Article re: Judicial Council Authority to Make Rules and Forms**

27
28 The Judicial Council may adopt rules and forms in accordance with this chapter. Any rule or
29 form adopted by the Judicial Council pursuant to this paragraph shall supersede any local rule of
30 a court.

31
32
33 **Veh. Code, § 40902. Trial by written declaration**

34
35 (a) (1) ~~The court, pursuant to this section, shall, by rule, provide that the defendant may elect to~~
36 ~~have a trial by written declaration upon any alleged infraction, as charged by the citing officer,~~
37 ~~involving a violation of this code or any local ordinance adopted pursuant to this code, other than~~
38 ~~an infraction cited pursuant to Article 2 (commencing with Section 23152) of Chapter 12 of~~
39 ~~Division 11. The defendant may elect to have a trial by written or electronic declaration upon~~
40 any alleged civil traffic violation, involving a violation of this code or any local ordinance
41 adopted pursuant to this code that does not require a mandatory appearance.

1 (2) The Judicial Council may adopt rules and forms governing trials by declaration in accordance
2 with this section. Any rule or form adopted by the Judicial Council pursuant to this paragraph
3 shall supersede any local rule of a court adopted pursuant to paragraph (1).

4 ~~(b) If the defendant elects to have a trial by written declaration, the defendant shall, at the time of~~
5 ~~submitting that declaration, submit bail in the amount established in the uniform traffic penalty~~
6 ~~schedule pursuant to Section 40310. If the defendant is found not guilty or if the charges are~~
7 ~~otherwise dismissed, the amount of the bail shall be promptly refunded to the defendant.~~

8 ~~(c) Notwithstanding Division 10 (commencing with Section 1200) of the Evidence Code, The~~
9 ~~rules governing trials by written *and electronic* declaration may provide for testimony and other~~
10 ~~relevant evidence to be introduced in the form of a notice to appear violation issued pursuant to~~
11 ~~Section 40500, a business record or receipt, a sworn declaration of the arresting officer, or a~~
12 ~~written statement or letter signed by the defendant *or other witness*.~~ Declarations submitted in
13 connection with a trial by declaration shall be received into evidence and considered on the same
14 basis as if the testimony stated therein were provided orally in court and subject to the rules of
15 evidence stated in section 40700.

16
17 ~~(d) If the defendant is dissatisfied with a decision of the court in a proceeding pursuant to this~~
18 ~~section, the defendant shall be granted a trial de novo.~~

19
20 **~~Veh. Code, § 40903. Election of trial by written declaration by failure to appear~~**

21
22 ~~(a) Any person who fails to appear as provided by law may be deemed to have elected to have a~~
23 ~~trial by written declaration upon any alleged infraction, as charged by the citing officer,~~
24 ~~involving a violation of this code or any local ordinance adopted pursuant to this code.~~

25
26 ~~(b) Notwithstanding Division 10 (commencing with Section 1200) of the Evidence Code,~~
27 ~~testimony and other relevant evidence may be introduced in the form of a notice to appear issued~~
28 ~~pursuant to Section 40500, a notice of parking violation issued pursuant to Section 40202, a~~
29 ~~notice of delinquent parking violation issued pursuant to Section 40206, a business record or~~
30 ~~receipt, a sworn declaration of the arresting officer, or a written statement or letter signed by the~~
31 ~~defendant.~~

32
33
34 **Veh. Code, § 42007. Traffic violator school**

35
36 (a) (1) ~~The clerk of the court shall collect a fee from every person who is ordered or permitted to attend a~~
37 ~~traffic violator school pursuant to Section 41501 or 42005 in an amount equal to the total bail set forth for~~
38 ~~the eligible offense on the uniform countywide bail schedule. As used in this subdivision, “total bail”~~
39 ~~means the amount established pursuant to Section 1269b of the Penal Code in accordance with the~~
40 ~~Uniform Bail and Penalty Schedule adopted by the Judicial Council, including all assessments,~~

1 ~~surecharges, and penalty amounts.~~ Every person ordered or permitted to attend traffic violator school
2 shall pay the court ~~of the court~~ the total amount due under the judgment according to the uniform
3 penalty schedule, or by a different amount as determined by the court, as well as a fee pursuant
4 to Section 41501 or 42005. Where multiple offenses are charged in a single notice to appear or
5 notice of violation, the “total bail” amount of the judgment is the amount applicable for the
6 greater of the qualifying offenses. However, the court may determine a lesser fee amount under
7 this subdivision upon a showing that the defendant is unable to pay the full amount.
8 The fee shall not include the cost, or any part thereof, of traffic safety instruction offered by a
9 traffic violator school.

10
11 (2) The clerk may accept from a defendant who is ordered or permitted to attend traffic violator
12 school a payment of at least 10 percent of the fee amount required by paragraph (1) upon filing a
13 written agreement by the defendant to pay the remainder of the fee according to an installment
14 payment schedule of no more than 90 days as agreed upon with the court. The Judicial Council
15 shall prescribe the form of the agreement for payment of the fee in installments. When the
16 defendant signs the Judicial Council form for payment of the fee in installments, the court shall
17 continue the case to the date in the agreement to complete payment of the fee and submit the
18 certificate of completion of traffic violator school to the court. The clerk shall collect a fee of up
19 to thirty-five dollars (\$35) to cover administrative and clerical costs for processing an installment
20 payment of the traffic violator school under this paragraph.

21 (3) If a defendant fails to make an installment payment of the fee according to an installment
22 agreement, the court may find the defendant in default pursuant to VC 40706, convert the fee to
23 bail, declare it forfeited, and report the forfeiture as a conviction under Section 1803. The court
24 may also charge a failure to pay under Section 40508 and impose a civil assessment as provided
25 in Section 1214.1 of the Penal Code or issue an arrest warrant for a failure to pay. For the
26 purposes of reporting a conviction under this subdivision to the department under Section 1803,
27 the date that the court finds the defendant in default declares the bail forfeited shall be reported
28 as the date of conviction.

29 (b) Revenues derived from the fee collected under this section shall be deposited in accordance
30 with Section 68084 of the Government Code in the general fund of the county and, as may be
31 applicable, distributed as follows:

32 (1) In any county in which a fund is established pursuant to Section 76100 or 76101 of the
33 Government Code, the sum of one dollar (\$1) for each fund so established shall be deposited
34 with the county treasurer and placed in that fund.

35 (2) In any county that has established a Maddy Emergency Medical Services Fund pursuant to
36 Section 1797.98a of the Health and Safety Code, an amount equal to the sum of each two dollars
37 (\$2) for every seven dollars (\$7) that would have been collected pursuant to Section 76000 of the
38 Government Code and, commencing January 1, 2009, an amount equal to the sum of each two
39 dollars (\$2) for every ten dollars (\$10) that would have been collected pursuant to Section
40 76000.5 of the Government Code with respect to those counties to which that section is

1 applicable shall be deposited in that fund. Nothing in the act that added this paragraph shall be
2 interpreted in a manner that would result in either of the following:

3 (A) The utilization of penalty assessment funds that had been set aside, on or before January 1,
4 2000, to finance debt service on a capital facility that existed before January 1, 2000.

5 (B) The reduction of the availability of penalty assessment revenues that had been pledged, on or
6 before January 1, 2000, as a means of financing a facility which was approved by a county board
7 of supervisors, but on January 1, 2000, is not under construction.

8 (3) The amount of the fee that is attributable to Section 70372 of the Government Code shall be
9 transferred pursuant to subdivision (f) of that section.

10 (c) For fee resulting from city arrests, an amount equal to the amount of base fines that would
11 have been deposited in the treasury of the appropriate city pursuant to paragraph (3) of
12 subdivision (b) of Section 1463.001 of the Penal Code shall be deposited in the treasury of the
13 appropriate city.

14 (d) The clerk ~~of the court~~, in a county that offers traffic school shall include in any ~~courtesy~~
15 reminder notice mailed to a defendant for an offense that qualifies for traffic school attendance
16 the following statement:

17
18 NOTICE: If you are eligible and decide not to attend traffic school your automobile
19 insurance may be adversely affected. For drivers with a noncommercial driver's license,
20 one conviction in any 18-month period will be held confidential and not show on your
21 driving record if you complete a traffic violator school program. For drivers with a
22 commercial driver's license, one conviction in any 18-month period will show on your
23 driving record without a violation point if you complete a traffic violator school program.
24

25 (e) Notwithstanding any other provision of law, a county that has established a Maddy
26 Emergency Medical Services Fund pursuant to Section 1797.98a of the Health and Safety Code
27 shall not be held liable for having deposited into the fund, prior to January 1, 2009, an amount
28 equal to two dollars (\$2) for every ten dollars (\$10) that would have been collected pursuant to
29 Section 76000.5 of the Government Code from revenues derived from traffic violator school fees
30 collected pursuant to this section.
31
32

33 **Welf. & Inst. Code, § 602. Persons subject to jurisdiction of juvenile court and to**
34 **adjudication as ward for violation of law or ordinance defining crime**
35

36 (a) Except as provided in Section 707, any minor who is between 12 years of age and 17 years of
37 age, inclusive, when he or she violates any law of this state or of the United States or any
38 ordinance of any city or county of this state defining crime other than an ordinance establishing a
39 curfew based solely on age, or any civil traffic violation, is within the jurisdiction of the juvenile
40 court, which may adjudge the minor to be a ward of the court.

1 (b) Any minor who is under 12 years of age when he or she is alleged to have committed any of
2 the following offenses is within the jurisdiction of the juvenile court, which may adjudge the
3 minor to be a ward of the court:

4 (1) Murder.

5 (2) Rape by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.

6 (3) Sodomy by force, violence, duress, menace, or fear of immediate and unlawful bodily injury.

7 (4) Oral copulation by force, violence, duress, menace, or fear of immediate and unlawful bodily
8 injury.

9 (5) Sexual penetration by force, violence, duress, menace, or fear of immediate and unlawful
10 bodily injury.

11
12
13 **Welf. & Inst. Code, § 603.5. Jurisdiction over minors for specified motor vehicle violations**
14

15 (a) Notwithstanding any other provision of law, in a county that adopts the provisions of this
16 section, jurisdiction over the case of a minor alleged to have committed only a violation of the
17 Vehicle Code classified as an infraction or a civil traffic violation or a violation of a local
18 ordinance involving the driving, parking, or operation of a motor vehicle, is with the superior
19 court, except that the court may refer to the juvenile court for adjudication, cases involving a
20 minor who has been adjudicated a ward of the juvenile court, or who has other matters pending
21 in the juvenile court.

22 (b) The cases specified in subdivision (a) shall not be governed by the procedures set forth in the
23 juvenile court law.

24 (c) Any provisions of juvenile court law requiring that confidentiality be observed as to cases
25 and proceedings, prohibiting or restricting the disclosure of juvenile court records, or restricting
26 attendance by the public at juvenile court proceedings shall not apply. The procedures for bail
27 specified in Chapter 1 (commencing with Section 1268) of Title 10 of Part 2 of the Penal Code
28 shall apply.

29 (d) The provisions of this section shall apply in a county in which the trial courts make the
30 section applicable as to any matters to be heard and the court has determined that there is
31 available funding for any increased costs.
32
33

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INVITATION TO COMMENT

LEG-__

Title	Action Requested
Judicial Council–Sponsored Legislation (Telephonic Appearances): Court Fees Collected from Telephone Appearance Revenue	Review and submit comments by June 7, 2019
Proposed Rules, Forms, Standards, or Statutes Amend Gov. Code, §§ 68085.1 and 72011	Proposed Effective Date January 1, 2021
Proposed by Judicial Branch Budget Committee Hon. David M. Rubin, Chair	Contact Christy Simons, 415-865-7694 christy.simons@jud.ca.gov

Executive Summary and Origin

The Judicial Branch Budget Committee proposes statutory changes for telephone appearance service fees to update and improve the formula to reflect current revenue allocation standards in the courts. The committee also proposes amending the statutes that prescribe the method for transmitting fees to reflect current fiscal practices in the courts. This proposal has no impact on the fee charged to individuals for telephone appearance services. The proposal is based on a suggestion from a vendor of telephone appearance services.

Background

Senate Bill 857 (Stats. 2010, ch. 720) created the statutory framework for statewide telephone appearance fees. The legislation required the Judicial Council to enter into a master agreement or master agreements for the provision of telephone appearance services. (Gov. Code, § 72010(a).) The 2018–2022 master agreement recently entered into between the Judicial Council and CourtCall LLC (CourtCall) is based on, and subject to, the 2010 legislation.

The principal telephone appearance fee statutes are Code of Civil Procedure section 367.6 and Government Code sections 72010 and 72011. These provide that “the Judicial Council shall establish statewide, uniform fees to be paid by a party for appearing by telephone.” (Code Civ. Proc., § 367.6(a).) Rule 3.670 of the California Rules of Court is the rule concerning telephone appearances in the trial courts. Based on the authority granted to the council by statute, the

This proposal has not been approved by the Judicial Council and is not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. It is circulated for comment purposes only.

Judicial Council has amended rule 3.670 several times over the years, most recently in 2018 to set the telephone appearance fee at \$94 per call as of January 1, 2019.

The fee statutes also provide that the Trial Court Trust Fund (TCTF) will receive a portion of each telephone appearance fee. “For each fee received for providing telephone appearance services, each vendor or court that provides for appearances by telephone shall transmit twenty dollars (\$20) to the State Treasury for deposit in the Trial Court Trust Fund established pursuant to Section 68085.” (Gov. Code, § 72011(a).) Under the current fee structure, any court providing telephone appearance services directly may charge an appearance fee of \$94, of which it receives \$74 and transmits \$20 for deposit into the TCTF.

Fiscal year 2009–10 revenue-sharing arrangement

In addition to the \$20 per call that providers must transmit to the TCTF, the fee statutes require vendors to transmit “an amount equal to the total amount of revenues received by all courts from all vendors providing telephonic appearances for the 2009–10 fiscal year.” (Gov. Code, § 72011(c).) This amount, determined to be \$943,840, was received in fiscal year (FY) 2009–10 by 38 courts from the vendors under revenue-sharing arrangements. The FY 2009–10 amount is included in master agreements and is due from the vendors each year. Because CourtCall has been virtually the only vendor since 2011, it has been responsible for transmitting the entire FY 2009–10 amount in quarterly payments.

The 2010 legislation directed the Judicial Council to allocate the FY 2009–10 amounts received “for the purpose of preventing significant disruption in services in courts that previously received revenues from vendors for providing telephone appearance services.” The bill further provided: “The Judicial Council shall determine the method and amount of the allocation to each eligible court.” (Gov. Code, § 72011(e).) Based on this statutory provision, the Judicial Council in 2011 approved a distribution every quarter to each of the courts that previously had a revenue-sharing agreement with a vendor in an amount equal to one fourth of the amount that the court had received in FY 2009–10 from their revenue-sharing arrangements with the vendor. A total of 38 courts receive revenue through this allocation, with amounts varying from as little as \$400 a year to as much as \$239,760 a year. The allocations have not changed since they were approved by the Judicial Council in 2011.

Telephone appearance services provided directly by courts

Finally, although the legislation on telephone appearance services assumed that these services would be provided primarily by a vendor or vendors, SB 857 also authorized courts to directly provide these services. “If the court provides the services directly, the court shall collect the fees for telephone appearances adopted by the Judicial Council” (Gov. Code, § 72010(c)(3).) Thus, if a court directly provides telephone appearance services, it currently collects the fee of \$94 per call. Like the vendor, it must transmit \$20 per call to the TCTF (Gov. Code, § 72011(a)) and retain the balance. Unlike the vendor, however, courts directly providing telephone appearance services are not required to contribute to the FY 2009–10 amount, which by statute is only apportioned among, and transmitted by, vendors. (Gov. Code, § 72011(c), (d).) Three courts

have recently elected to provide telephone appearance services directly, and others may soon follow.

The Proposal

Introduction

The statutory framework for statewide telephone appearance fees was created in 2010. Because circumstances have changed since that time, and to make the fee structure simpler and fairer, the committee proposes the following amendments to the fee statutes:

1. Repeal Government Code section 72011(c) through (e), which requires vendors to transmit the FY 2009–10 amount each year and authorizes the Judicial Council to allocate that amount among the courts that had previously had contractual revenue-sharing arrangements with vendors (the “eligible” courts);
2. Amend Government Code section 72011(a) to increase the fee share from \$20 to \$23 that each vendor or court that provides telephone appearance services must transmit to the State Treasury for deposit in the TCTF; and
3. Amend Government Code section 72011(b) to prescribe a method and timeline for the courts to use to transmit the fee share amount prescribed in section 72011(a) that is consistent with their regular judicial branch fiscal practices.

Discussion

Repeal Government Code section 72011(c) through (e)

As noted above, the fee structure that requires vendors to continue indefinitely to transmit the FY 2009–10 amount (\$943,840) each year for allocation among 38 eligible trial courts was enacted in 2010. SB 857 allocated this amount “for the purpose of preventing significant disruption in service in courts that previously received revenues from vendors for providing telephone appearance service.” (Gov. Code, § 72011(e).) The language “for the purpose of preventing significant disruption” suggests that this allocation was intended to be a temporary measure; however, after more than seven years, the allocation has become an ongoing part of the revenues transmitted to the courts under SB 857.

The allocation method under subdivisions (c) through (e) is not based on court size, workload, or other basis consistent with current judicial branch fiscal practices. There are large courts (such as Los Angeles and San Diego) that receive nothing and smaller courts (such as Stanislaus and Imperial) that receive significant amounts. The San Bernardino court, an outlier, receives the largest allocation (\$239,700 annually). In addition, some of the courts that are now providing direct telephone appearance services (El Dorado and Placer) are still receiving revenue-sharing money of over \$24,000 each annually from the vendor, which CourtCall regards as unfair and anticompetitive.

The committee is proposing to eliminate the FY 2009–10 allocation and replace it by increasing the share of the telephone appearance fee transmitted to the TCTF from \$20 to a moderately higher share to offset the loss of the FY 2009–10 amount. The increased revenue transmitted to the TCTF under this approach would, in turn, be distributed among the trial courts under current allocation standards, rather than the outdated SB 857 formula. The additional legislation required to implement this approach is discussed in the next section.

Amend Government Code section 72011(a)

Legislation that simply eliminated the responsibility of vendors to contribute \$943,840 annually to the 38 eligible courts would have an adverse fiscal impact on the courts. To substantially offset the impact of this loss of revenue, the committee proposes combining the repeal of subdivisions (c) through (e) with an amendment to subdivision (a) to increase the fee share for providing telephone appearance services.

The committee proposes increasing the share by \$3 per call, from \$20 to \$23. This would result in the distribution to the TCTF of approximately \$864,000, assuming 288,076 CourtCall appearances per year,¹ thereby largely offsetting the loss of the \$943,840 annually.² If the number of telephone appearances increases in the future, the amount distributed to the TCTF would increase.

Any legislation that would simply eliminate the requirements of subdivisions (c) through (e) would result in an immediate savings of \$943,840 annually for CourtCall, essentially providing a windfall, with no offset for the courts for the loss of revenue. However, if legislation to repeal subdivisions (c) through (e) is combined with a \$3 increase in the \$20 share set forth in subdivision (a), the courts would not suffer an immediate \$943,840 revenue loss and the vendor would initially receive approximately the same expected net income before and after the share increase. Thus, the immediate effect of the combined legislation would be to eliminate most of the adverse impacts of repealing subdivisions (c) through (e). This legislation would also convert CourtCall’s fixed \$943,840 annual obligation into an obligation to pay a variable amount as an increased share, dependent on the number of telephone appearances.

A statutory increase in the \$20 share amount would also affect courts that provide telephone appearance services directly. Before courts began providing these services directly, only the vendor provided them, collected the fee, and transmitted to the TCTF the \$20 share per call. Under these circumstances, a statutory increase in the \$20 share amount could simply be used to offset the elimination of the FY 2009–10 allocation. However, some courts are now beginning to

¹ This number is derived from the lowest quarterly number of appearances of the eight calendar quarters from June 2016 through March 2018.

² To achieve a revenue objective of fully offsetting the impact of repealing subdivisions (c) through (e), Budget Services estimates that an increased share of \$3.30 per call would be required. This would result in a distribution to the TCTF of approximately \$951,000. However, due to the accounting problems a fractional dollar amount would create, the committee proposes increasing the share by \$3 per call, not \$3.30.

provide the services and collect the telephone appearance fee themselves. Any courts providing direct telephone appearance services must also transmit \$20 of each telephone appearance fee they receive to the TCTF. (Gov. Code, § 72011(a).) Thus, if the \$20 share to the TCTF set forth in subdivision (a) is increased, the direct service courts would have to pay a greater share of their telephone appearance revenues pursuant to that subdivision. This revenue would go into the TCTF instead of to the specific court directly providing the services. This may be an issue for some of these courts. However, the telephone appearance fee was recently raised from \$86 to \$94, an \$8 per call increase, which might assuage some of these courts' concerns.

Amend Government Code section 72011(b)

Trial courts that provide telephone appearance services directly and transmit the share amount to the TCTF are currently required to use the statutory method for transmission provided in section 72011(b). However, this method does not work procedurally for the courts, which use a different method and time frame for the transmission of revenues. To be consistent with the courts' practices, section 72011(b) should be amended to direct courts to follow the procedures that are established in Government Code section 68085.1. In addition, section 72011(b) should be amended to include a reference to fees collected under section 72011(a).

Alternatives Considered

The committee considered two legislative proposals from CourtCall that would eliminate the \$943,840 (the FY 2009–10 amount) required annually under SB 857:

- CourtCall's preferred approach would be to repeal subdivisions (c) through (e) of Government Code section 72011 entirely, thereby eliminating its obligation to make any such payments.
- Its alternative proposal would, for some period of time, replace the current fixed FY 2009–10 amount with an amount based on the number of appearances conducted by the vendor in each participating court. The Judicial Council would continue to allocate the revenues received from this amount among eligible courts; however, any court that directly provides telephone appearance services would no longer be eligible to receive any allocation. This alternative proposal would include a termination date on which subdivisions (c) through (e) would expire.

Thus, the ultimate goal of CourtCall's legislative proposals is the complete elimination of the vendor's obligation to make payments based on historic revenue-sharing arrangements with select courts.

The committee agrees with modernizing the fee structure. However, eliminating the statutory requirement to transmit the FY 2009–10 amount annually without offsetting the loss of revenue would be a windfall to CourtCall and would adversely impact the courts. The committee's proposal avoids a financial loss for the courts, eliminates the outdated "legacy payments," and provides a more fair revenue-sharing framework based on call volume.

The committee considered raising the \$20 share amount by \$3.30 to \$23.30, the amount calculated by Judicial Council Budget Services that would be adequate to offset the FY 2009–10 amount. However, a fractional dollar amount would be difficult for accounting purposes and needlessly awkward. The committee preferred to avoid these issues even if the \$23 share amount does not fully offset the loss of the FY 2009–10 amount.

The committee also considered raising the \$20 share amount by \$4. The committee rejected this option because it would generate increased revenue for the TCTF rather than offsetting what stands to be lost if the FY 2009–10 amount is eliminated. It would also require trial courts that directly provide telephone appearance services to transmit to the TCTF a greater share of each fee.

Finally, the committee considered proposing no change to the statutory framework. This option was rejected because the existing law is outdated and does not reflect current allocation standards.

Fiscal and Operational Impacts

The 38 trial courts that have been receiving an allocation of telephone appearance revenue based on the FY 2009–10 revenue-sharing arrangement would no longer receive these payments. Instead, the increased share of the telephone appearance fee transmitted to the TCTF would be distributed among the trial courts under current allocation standards.

Courts that directly provide telephone appearance services would pay a greater share of their telephone appearance fee to the TCTF—\$23 instead of \$20. However, the recent increase in the telephone appearance fee from \$86 to \$94 per call would mitigate this impact. Direct provider courts would still see a net revenue increase of \$5 per call over revenue received prior to January 1, 2019.

Amending the statutes that prescribe the method for transmitting a portion of the telephone appearance fee to the State Treasury to provide a method and time frame that work for the courts that provide telephone appearance services directly may require those courts to modify their procedures. The new method and time frame would be consistent with the courts' practices and would improve the process for the courts.

Request for Specific Comments

In addition to comments on the proposal as a whole, the committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The advisory committee [or other proponent] also seeks comments from *courts* on the following cost and implementation matters:

- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- Would one year from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?

Attachments

1. Gov. Code, §§ 68085.1 and 72011, at pages 8–9

Government Code sections 68085.1 and 72011 would be amended, effective January 1, 2021, to read:

1 **§ 68085.1.**

2
3 (a) This section applies to all fees and fines that are collected on or after January 1, 2006,
4 under all of the following:

5
6 (1)–(3) * * *

7
8 (4) Subdivision (d) of Section 6103.5, Sections 68086 and 68086.1, subdivision (d) of
9 Section 68511.3, Sections 68926.1 and 69953.5, ~~and Chapter 5.8 (commencing~~
10 with Section 70600), and subdivision (a) of Section 72011.

11
12 (5)–(10) * * *

13
14 (b)–(k) * * *

15
16
17 **§ 72011.**

18
19 (a) For each fee received for providing telephone appearance services, each vendor or court
20 that provides for appearances by telephone shall transmit ~~twenty dollars (\$20)~~ twenty-
21 three dollars (\$23) to the State Treasury for deposit in the Trial Court Trust Fund
22 established pursuant to Section 68085. If the vendor or court receives a portion of the fee
23 as authorized under paragraph (2) of subdivision (b) of Section 367.6 of the Code of Civil
24 Procedure, the vendor or court shall transmit only the proportionate share of the amount
25 required under this section. This section shall apply regardless of whether the Judicial
26 Council has established the statewide uniform fee pursuant to Section 367.6 of the Code
27 of Civil Procedure, or entered into one or more master agreements pursuant to Section
28 72010 of this code. This section shall not apply when a vendor or court does not receive a
29 fee.

30
31 (b) ~~The amounts described in subdivision (a) shall be transmitted~~ A vendor shall transmit the
32 amounts described in subdivision (a) within 15 days after the end of each calendar quarter
33 for fees collected in that quarter. A court shall deposit the amounts described in
34 subdivision (a) as provided in subdivision (b) of Section 68085.1, and the Judicial
35 Council will transmit the fees collected as provided in subdivision (b) of Section 68085.1.

36
37 (c) ~~Vendors shall also transmit an amount equal to the total amount of revenue received by~~
38 ~~all courts from all vendors for providing telephonic appearances for the 2009–10 fiscal~~
39 ~~year.~~

40
41 (d) ~~The amount set forth in subdivision (c) shall be apportioned by the Judicial Council~~
42 ~~among the vendors with which the Judicial Council has a master agreement pursuant to~~

1 ~~Section 72010. Within 15 days of receiving notice from the Judicial Council of its~~
2 ~~apportioned amount, each vendor shall transmit that amount to the State Treasury for~~
3 ~~deposit in the Trial Court Trust Fund.~~

- 4
- 5 ~~(e) The Judicial Council shall allocate the amount collected pursuant to subdivisions (c) and~~
6 ~~(d) for the purpose of preventing significant disruption in services in courts that~~
7 ~~previously received revenues from vendors for providing telephone appearance services.~~
8 ~~The Judicial Council shall determine the method and amount of the allocation to each~~
9 ~~eligible court.~~

10

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INVITATION TO COMMENT

LEG-__

Title	Action Requested
Judicial Council–Sponsored Legislation: Temporary Emergency Gun Violence Restraining Order	Review and submit comments by June 7, 2019
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Penal Code section 18140	January 1, 2021
Proposed by	Contact
Civil and Small Claims Advisory Committee	Kristi Morioka, 916-643-7056 kristi.morioka@jud.ca.gov
Hon. Ann I. Jones, Chair	Anne M. Ronan, 415-865-8933 anne.ronan@jud.ca.gov

Executive Summary and Origin

The Civil and Small Claims Advisory Committee, at the suggestion of several courts, proposes that the Judicial Council sponsor legislation amending Penal Code section 18140, which currently requires that a law enforcement officer who requests a temporary emergency gun violence restraining order (emergency GVRO) “[f]ile a copy of the order with the court as soon as practicable after issuance.” (Pen. Code, § 18140(c).) The proposal would add a time frame of no later than three court days to ensure that the court receives the emergency GVRO with sufficient time to set and notice a hearing within 21 days, as required by newly enacted Penal Code section 18148.

The Proposal

Senate Bill 1200 (Stats. 2018, ch. 898) took effect January 1, 2019. Among other things, the new law adds section 18148 to the Penal Code,¹ which mandates that following the issuance of an emergency GVRO, the court is required to hold a hearing within 21 days to determine if a year-long emergency GVRO should be issued. Generally, emergency GVROs are issued orally by a judicial officer, on telephonic application of a law enforcement officer who completes the *Gun Violence Emergency Protective Order* (form EPO-002) in the field.² These orders last for 21

¹ All statutory references hereafter are to the Penal Code, unless otherwise noted.

² §§ 18140 and 18145.

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days and, until the enactment of SB 1200, did not trigger a hearing of any kind.³ Current law requires that the emergency GVRO be filed with the court “as soon as practicable after issuance” of the order, with no set time frame included in the statute.⁴ That provision was not amended in any way when SB 1200 added the new post- emergency GVRO hearing requirement.

To implement the new hearing requirement, several new and revised Judicial Council forms are being developed. When these proposed forms were recently circulated for public comment, several commenters, including the Superior Courts of Orange County and Los Angeles County and the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and Court Executives Advisory Committee, suggested that a legislative amendment was needed to establish a more workable process for triggering the time frame for the new hearing. The commenters proposed establishing a set deadline by which the law enforcement officer issuing the GVRO must file the order with the court. The commenters noted that, because the issuance (not the filing) of the emergency GVRO triggers the 21-day period in which the new post-emergency GVRO hearing must be held, the period could run without the court having adequate time to set and provide timely notice of a hearing to the restrained party. The advisory committee agrees with the commenters and proposes that the council sponsor such legislation.

This proposal would require law enforcement to file the emergency GVRO (form EPO-002) within three court days. Doing so would ensure that the court has notice of the emergency GVRO with sufficient time to schedule a hearing within the statutory 21-day time frame, provide notice of the hearing to the restrained party and to law enforcement,⁵ and receive and review any opposition from the restrained party, should the party wish to file it. This proposal is needed to ensure that all law enforcement agencies timely file the emergency GVRO.

Alternatives Considered

The committee considered maintaining the status quo, but concluded—particularly in light of information that some law enforcement agencies file emergency GVRO in batches and may take as long as a week before filing the forms with the courts—that the proposed legislation would improve the court’s overall administration of these orders.

The committee also considered alternative time frames for the legislative proposal, either to require that form EPO-002 be filed within one court day of issuance, or to require that the form be filed at the same time that the law enforcement agency enters proof of service of the order into

³ Previously, a hearing for determining whether a year-long protective order should be issued was held only after a separate petition was filed and notice served on the restrained party. See § 18170 et seq.

⁴ § 18140(c).

⁵ Although some courts have processes in place that allow the judicial officer issuing the emergency GVRO to provide a hearing date—which can be included on form EPO-002—at the time of issuance, many courts do not; they set the hearing date and mail out notice only after the form has been filed with the court.

the California Restraining and Protective Order System (CARPOS)⁶ The committee thought that one court day might not be enough time to transmit the order to the courts. It also noted that different jurisdictions handle entry into CARPOS and transmission to the courts in different ways, so tying the two processes together would not necessarily make sense. Ultimately, the committee decided to circulate the three-day time frame for public comment to receive input on whether this proposed time frame best meets the needs of law enforcement, the courts, and the public.

Fiscal and Operational Impacts

The largest impact of this proposal will fall on law enforcement, which, to comply with the time frame, may need to change practices and procedures, reassign job duties, and engage in training of relevant staff. The major fiscal and operational impacts to the courts result from new Penal Code section 18148, which requires the courts to hold and provide notice for a hearing within 21 days of the issuance of an emergency GVRO. The intent of this proposal is to lessen this burden somewhat by ensuring that courts have as much time as possible to comply with this new statutory requirement.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so, please quantify.
- What would the implementation requirements be for courts—for example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Penal Code section 18140, at page 4

⁶ Section 18115 requires that proof of service of all gun violence restraining orders be transmitted to CARPOS within one business day of service. CARPOS is a database of restraining orders in the California Law Enforcement Telecommunications System.

Penal Code section 18140 would be amended, effective January 2, 2021, to read:

1 **§ 18140**

2

3 A law enforcement officer who requests a temporary emergency gun violence restraining
4 order shall do all of the following:

5

6 (a) If the request is made orally, sign a declaration under penalty of perjury reciting the
7 oral statements provided to the judicial officer and memorialize the order of the court
8 on the form approved by the Judicial Council.

9

10 (b) Serve the order on the restrained person, if the restrained person can reasonably be
11 located.

12

13 (c) File a copy of the order with the court as soon as practicable after issuance, but within
14 three court days.

15

16 (d) Have the order entered into the computer database system for protective and
17 restraining orders maintained by the Department of Justice.