



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

OFFICE OF GOVERNMENTAL AFFAIRS
770 L Street, Suite 1240 • Sacramento, California 95814-3368
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TANI G. CANTIL-SAKAUYE
Chief Justice of California
Chair of the Judicial Council

STEVEN JAHR
Administrative Director of the Courts

CORY T. JASPERSON
Director, Office of Governmental Affairs

March 24, 2014

Hon. Loni Hancock, Chair
Senate Public Safety Committee
State Capitol, Room 2082
Sacramento, California 95814

Subject: SB 1222 (Block), as introduced – Support/Sponsor
Hearing: Senate Public Safety Committee – April 8, 2014

Dear Senator Hancock:

The Judicial Council supports and is sponsoring SB 1222, which requires that the reasons for dismissal be set forth either on the record or in an order entered upon the minutes.

Existing law authorizes courts to dismiss criminal actions in the “furtherance of justice” and requires the reasons for dismissal be “set forth in an order entered upon the minutes.” This requirement serves two main purposes: (1) to promote judicial accountability by requiring trial courts to explain why such a “great power” was exercised; and (2) to facilitate appellate review of the reasons for dismissal (Pen. Code § 1385). Unfortunately, this requirement leads to costly extraneous proceedings since it is mandatory even when the reasons for dismissal are separately set forth on the record and in the transcripts. Either party can obtain an automatic reversal on the ground the reasons for dismissal are not stated in the minutes, even when the spirit of the requirement is satisfied by statement of the reasons on the record and in transcripts.

SB 1222 amends Penal Code section 1385 to allow a court the discretion to set forth the reasons for dismissal either on the record or in an order entered upon the minutes. Stating the reasons for dismissal on the record is effective because, as a practical matter, there are often multiple reasons

not easily summarized in the minutes. Minutes are typically a brief summary of a clerk's interpretation of what was actually stated by the court, which raises concerns about accuracy and lack of thorough explanation. Prosecutors seldom rely exclusively on the minutes to determine the reasons for a past dismissal, and instead typically review transcripts and case files for notes that explain the reasons.

By permitting courts to enter reasons for dismissal either on the record or in the minutes of a court proceeding, the SB 1222 results in cost savings by avoiding unnecessary automatic reversals. The bill adheres to the spirit of existing law while providing an alternative; stating the reasons on the record.

For these reasons, the Judicial Council is sponsoring and supporting SB 1222.

Sincerely,

A handwritten signature in cursive script that reads "Sharon Reilly". The signature is written in black ink and is positioned below the word "Sincerely,".

Sharon Reilly
Senior Attorney

SR/yc-s

cc: Members, Senate Public Safety Committee
Hon. Marty Block, Member of the Senate
Ms. Mary Kennedy, Counsel, Senate Public Safety Committee
Ms. June Clark, Deputy Legislative Secretary, Office of the Governor
Mr. Eric Csizmar, Consultant, Senate Republican Office of Policy



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June 16, 2014

Hon. Tom Ammiano, Chair
Assembly Public Safety Committee
State Capitol, Room 3146
Sacramento, California 95814

Subject: SB 1222 (Block), as amended May 22, 2014 – Support/Sponsor
Hearing: Assembly Public Safety Committee – June 24, 2014

Dear Assembly Member Ammiano:

The Judicial Council is pleased to support and sponsor SB 1222, which requires that the reasons for dismissal shall be stated orally on the record and that the court also set forth the reasons in an order entered upon the minutes if requested by either party or in any case in which the proceedings are not being recorded electronically or reported by a court reporter.

Existing law authorizes courts to dismiss criminal actions in the “furtherance of justice” and requires the reasons for dismissal be “set forth in an order entered upon the minutes.” This requirement serves two main purposes: (1) to promote judicial accountability by requiring trial courts to explain why such a “great power” was exercised; and (2) to facilitate appellate review of the reasons for dismissal (Pen. Code § 1385). Unfortunately, this requirement leads to costly extraneous proceedings since it is mandatory even when the reasons for dismissal are separately set forth on the record and in the transcripts. Either party can obtain an automatic reversal on the grounds that the reasons for dismissal are not stated in the minutes, even when the spirit of the requirement is satisfied by statement of the reasons on the record and in transcripts.

SB 1222 amends Penal Code section 1385 to allow a court the discretion to set forth the reasons for dismissal either on the record or in an order entered upon the minutes, except that the order shall be entered upon the minutes if requested by either party or in any case in which the proceedings are not being recorded electronically or reported. Stating the reasons for dismissal on the record is effective because, as a practical matter, there are often multiple reasons not easily summarized in the minutes. Minutes are typically a brief summary of a clerk's interpretation of what was actually stated by the court, which raises concerns about accuracy and lack of thorough explanation. Prosecutors seldom rely exclusively on the minutes to determine the reasons for a past dismissal, and instead typically review transcripts and case files for notes that explain the reasons.

By permitting courts to enter reasons for dismissal either on the record or in the minutes of a court proceeding, with the exception that the order shall be entered upon the minutes if requested by either party or in any case in which the proceedings are not being recorded electronically or reported, SB 1222 results in cost savings by avoiding unnecessary automatic reversals. The bill adheres to the spirit of existing law while providing an alternative; stating the reasons on the record.

For these reasons, the Judicial Council is pleased to sponsor and support SB 1222.

Sincerely,

A handwritten signature in cursive script that reads "Sharon Reilly".

Sharon Reilly
Senior Attorney

SR/yc-s

cc: Members, Assembly Public Safety Committee
Hon. Marty Block, Member of the Senate
Mr. Gregory Pagan, Chief Counsel, Assembly Public Safety Committee
Ms. June Clark, Deputy Legislative Secretary, Office of the Governor
Mr. Gary Olson, Consultant, Assembly Republican Office of Policy



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July 9, 2014

Hon. Edmund G. Brown, Jr.
Governor of California
State Capitol, First Floor
Sacramento, California 95814

Subject: SB 1222 (Block), as amended May 27, 2014—Request for Signature

Dear Governor Brown:

The Judicial Council is pleased to support and sponsor SB 1222, which amends Penal Code section 1385 to allow a court the discretion to set forth the reasons for dismissal either on the record or in an order entered upon the minutes, except that the order shall be entered upon the minutes if requested by either party or in any case in which the proceedings are not being recorded electronically or reported.

Existing law authorizes courts to dismiss criminal actions in the “furtherance of justice” and requires the reasons for dismissal be “set forth in an order entered upon the minutes.” This requirement serves two main purposes: (1) to promote judicial accountability by requiring trial courts to explain why such a “great power” was exercised; and (2) to facilitate appellate review of the reasons for dismissal (Pen. Code § 1385). Unfortunately, this requirement leads to costly extraneous proceedings since it is mandatory even when the reasons for dismissal are separately set forth on the record and in the transcripts. Either party can obtain an automatic reversal on the grounds that the reasons for dismissal are not stated in the minutes, even when the spirit of the requirement is satisfied by statement of the reasons on the record and in transcripts.

Hon. Edmund G. Brown, Jr.

July 9, 2014

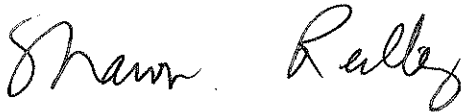
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Stating the reasons for dismissal on the record is effective because, as a practical matter, there are often multiple reasons not easily summarized in the minutes. Minutes are typically a brief summary of a clerk's interpretation of what was actually stated by the court, which raises concerns about accuracy and lack of thorough explanation. Prosecutors seldom rely exclusively on the minutes to determine the reasons for a past dismissal, and instead typically review transcripts and case files for notes that explain the reasons.

By permitting courts to enter reasons for dismissal either on the record or in the minutes of a court proceeding, with the exception that the order shall be entered upon the minutes if requested by either party or in any case in which the proceedings are not being recorded electronically or reported, SB 1222 results in cost savings by avoiding unnecessary automatic reversals.

For these reasons, the Judicial Council requests your signature on SB 1222.

Sincerely,

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

Sharon Reilly
Senior Attorney

SR/yc-s

cc: Hon. Marty Block, Member of the Senate

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