



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

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*Director, Office of Governmental Affairs*

April 16, 2013

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

Subject: SB 366 (Wright), as introduced - Oppose  
Hearing: Senate Public Safety Committee – April 23, 2013

Dear Senator Hancock:

The Judicial Council opposes SB 366, which, among other things, would implement broad changes to the laws that govern how civil assessments are imposed and processed.

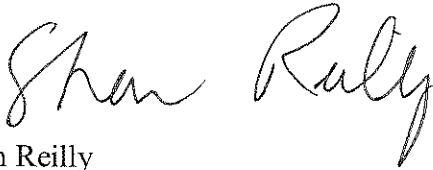
The Judicial Council has several concerns about the bill. First, the council is concerned about the loss of revenue to the courts that would result from the changes to how civil assessments are imposed and processed. Second, there are number of new requirements in the bill that would significantly increase the workload of courts that are already understaffed as a result of severe cuts to their budgets. The mandates in the bill would be very time consuming because they require courts to develop a number of new processes and hold additional hearings. For example, the bill requires courts to provide a process for a defendant to appear to show good cause for failure to appear and would require courts to waive a civil assessment if a defendant shows good cause for that failure. Also, the bill would prohibit a court from requiring the payment of bail, a fine, or a civil assessment before a person may request the court to vacate a civil assessment thus requiring changes to existing processes.

In addition, the bill expands the evidentiary issues courts would need to consider. For example, the bill would require courts to make evidentiary findings about the ability of individuals to pay when

adjudicating any infraction. The bill also requires courts to make an evidentiary finding on the defendant's ability to pay on the basis of whether the individual receives certain public assistance benefits. Similarly the bill would allow a defendant to appear beyond the time frame stated in the warning notice "if there is evidence that the notice was not in fact received" thus requiring courts to make an evidentiary finding as to receipt of that notice. These courts have very little time to spend on individual cases and requiring the courts to make additional evidentiary findings will inevitably require more court time to be spent on individual cases and increase the burdens on courts.

For these reasons, the Judicial Council opposes SB 366.

Sincerely,

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

Sharon Reilly  
Senior Attorney

SR/yc

cc: Members, Senate Public Safety Committee  
Hon. Roderick D. Wright, 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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May 15, 2013

Hon. Kevin de León, Chair  
Senate Appropriations Committee  
State Capitol, Room 5108  
Sacramento, California 95814

Subject: SB 366 (Wright), as amended May 14, 2013 — Oppose and Fiscal Impact Statement  
Hearing: Senate Appropriations Committee — May 20, 2013

Dear Senator de León:

The Judicial Council regrets that it must oppose SB 366, which, among other things, would implement broad changes to the laws that govern how civil assessments are imposed and processed.

The Judicial Council has several concerns about the bill. There are a number of new requirements in the bill that would significantly increase the workload of courts that are already understaffed as a result of severe cuts to their budgets. The mandates in the bill would be very time consuming because they require courts to develop a number of new processes and hold additional hearings. For example, the bill requires courts to provide a process for a defendant to appear to show good cause for failure to appear before a civil assessment may be imposed. The bill would also prohibit a court from requiring the payment of bail, a fine, or a civil assessment before a person may request the court to vacate a civil assessment thus requiring changes to existing processes. The bill would require courts to consider the ability of a defendant to pay a civil assessment when setting an assessment in an amount between \$10 and \$300, which will require courts to modify existing processes and procedures.

In addition, the bill expands the evidentiary issues courts would need to consider. For example, the bill would require courts to make evidentiary findings about the ability of individuals to pay when adjudicating any infraction and setting the amount for a civil assessment. Also, the bill would require courts to make an evidentiary finding relating to a defendant's failure to appear on the basis that an individual had good cause for failure to appear. Requiring the courts to make additional evidentiary findings will require more court time to be spent on individual cases and as a result further delaying already overburdened court calendars.

For these reasons, the Judicial Council opposes SB 366.

In addition to the policy reasons stated above, SB 366 imposes severe financial hardships on the trial courts. Of particular note, are the following issues:

- SB 366 prohibits courts from limiting the grounds for good cause for failure to appear. The bill also requires the court to vacate a civil assessment for failure to appear if the defendant appears beyond the time specified in the notice and provides a sworn statement under penalty of perjury that the notice was not in fact received because the defendant is homeless or does not have a fixed address. In addition, SB 366 would require civil assessments to be imposed at not less than \$10 and not more than \$300, on a sliding scale according to the defendant's ability to pay. These provisions will likely result in more individuals petitioning the courts on the basis that they had good cause for failing to appear or that they are unable to pay all or a portion of a civil assessment. As a result, SB 366 will likely result in additional hearings. A hearing of just fifteen minutes could result in significant burdens on the courts. There were over 7.7 million felonies, misdemeanors and infractions, including those related to traffic, filed in California last year. If just one percent of the defendants sought to use the process to appear to show good cause as more broadly defined in the bill, the courts would experience additional costs in terms of hearing time of \$9,625,000. This is based on the average cost of a day in court, which is approximately \$4000, taking into account the time of the judicial officer and courtroom staff. Fifteen minutes of court time costs \$125. (77,000 defendants requiring 15 minutes of court time at \$125 equals \$9.625 million.)
- SB 366 requires the court to consider a defendant's ability to pay in *all* infraction cases, whereas current law requires courts, upon request of a defendant in a *traffic* infraction case only, to consider a defendant's ability to pay a fine. This provision would require the imposition of procedures, including new motions and additional hearings, for proceedings related to criminal infractions, at the per hearing cost of \$125 described above. As a result, this change would require case management software modifications, new and revised rules of court, new and revised Judicial Council forms, and revised curricula and training for judicial officers and court personnel. In addition, as noted above, SB 366 would require civil assessments to be imposed at not less than \$10 and not more than \$300, on a sliding scale according to the defendant's ability to pay. Because the bill requires a sliding scale, it will impact the automated processes many courts currently use to process civil assessments and necessitate case management software modifications. While these costs have not been estimated, they are likely to be considerable.

- SB 366 authorizes courts to impose a sentence of community service in lieu of paying a civil assessment upon a showing of an inability to pay, whereas current law authorizes courts to impose a sentence of community service only upon a showing that the *total fine* (exclusive of the civil assessment) would pose a hardship on the defendant or his or her family. SB 366 requires the court to determine that paying the total or a modified fine is a hardship if the defendant falls within the category of individuals eligible to have court fees and costs waived because of his or her financial condition and authorizes the court to delegate the task to the clerk. These changes would require the courts to adopt new procedures and would require the Judicial Council to revise rules of court and forms.
- SB 366 would also require courts to notify the Department of Motor Vehicles when an individual signs an agreement to pay a fine, fee, or bail in installments, or signs an agreement to perform community service in lieu of the fine, fee or bail, to file a certificate showing that an agreement has been signed with the department and request the department to lift the hold on a driver's license. Under existing law courts are only required to notify the department when the fine or fee has been paid. This provision will require the courts to adopt new procedures and undertake additional notifications to the department.
- SB 366 requires the Judicial Council to adopt a schedule that establishes the amounts of civil assessments that a court may levy based on defendants' ability to pay. We estimate various staff would work for a combined 137 hours, to establish such a schedule at a cost of \$10,000.

We hope to continue to work with the author and bill sponsors to reduce the negative impacts on the trial courts. Considering, however, that the judicial branch faces unprecedented reductions in funding and, more importantly, services to the public, a bill that imposes tens of millions of dollars in costs and lost revenue on the courts represents a further frustration of justice, even while providing relief to a needy segment of court users.

Sincerely,



Sharon Reilly  
Senior Attorney

SR/yc-s

cc: Members, Senate Appropriations Committee  
Hon. Roderick D. Wright, Member of the Senate  
Ms. Jolie Onodera, Consultant, Senate Appropriations Committee  
Mr. Matt Osterli, Fiscal Consultant, Senate Republican Fiscal Office  
Ms. Mary Kennedy, Counsel, Senate Public Safety Committee  
Mr. Eric Csizmar, Consultant, Senate Republican Office of Policy  
Ms. June Clark, Deputy Legislative Secretary, Office of the Governor