

Title	Traffic Infractions: Installment Payment of Bail Forfeitures and Traffic Violator School Fees (adopt forms TR-300 and TR-310)
Summary	The proposed forms, which would be used by court clerks to process installment payment of bail forfeitures and traffic violator school fees without requiring an appearance by a defendant in court before a judicial officer, are authorized by recently enacted legislation.
Source	Traffic Advisory Committee
Staff	Courtney Tucker, Attorney, 415-865-7611
Discussion	<p>Assembly Bill 1248 (Stats. 2007, ch. 738) amended Vehicle Code sections 40510.5 and 42007 to allow court clerks to accept bail forfeitures and traffic violator school fees in installments for traffic infractions. Sections 40510.5 and 42007 authorize the Judicial Council to adopt forms for courts to use for processing the installment payments. The law does not require courts to offer installment payment plans, but courts that offer installment payment plans for bail or traffic violator school fees in traffic infraction cases must use forms adopted by the Judicial Council for the procedures. The Traffic Advisory Committee proposes adoption of forms TR-300 and TR-310, which would be used by court clerks to process installment payment plans in traffic infraction cases without an appearance in court before a judicial officer.</p> <p><i>Payment and forfeiture of bail in installments for traffic infractions</i></p> <p>As authorized by the recent legislation, the proposed form TR-300 is proposed for use by court clerks to accept payment and forfeiture of bail in installments for traffic infractions for violations that do not require a mandatory court appearance. Because the installment payment procedure does not require an arraignment or an appearance before a judicial officer in court and there are significant legal consequences for failure to make an installment payment, section 2 of the proposed form includes an express written advisement of rights and signed waiver of rights by the defendant. Sections 8 and 11 of the proposed form include advisements and signed acknowledgements of the consequences for failure to pay or failure to appear at a court hearing, if required. The proposed form also includes a section for an interpreter to sign that the form has been read and explained to a defendant in a foreign language.</p> <p>Under the new law, a court that uses this form is authorized to continue the case for completion of the payments and report a bail forfeiture to the Department of Motor Vehicles as a conviction on the date of the initial payment. (Veh. Code, § 40510.5(b) and (d).) No trust account would be required and payments would be distributed when received. (Veh. Code, § 40510.5(f).) If a defendant fails to make a payment as agreed, the court may</p>

report the failure to pay to the Department of Motor Vehicles, issue a warrant, or send a notice that a civil assessment would be imposed if the defendant does not appear and show good cause for the failure to pay. (Veh. Code, §§ 40509.5 and 40510.5(e).) For a failure to pay, the court may also impound the defendant's driver's license and order the person not to drive for up to 30 days. (Veh. Code, § 40508(d).) Bail installment payments under the new law would be final and not subject to reconsideration as bail is for other criminal cases. (Veh. Code, § 40510.5(c).)

*Payment of traffic violator school fees in installments*

Form TR-310 is proposed for use by court clerks to accept installment payment of traffic violator school fees for eligible traffic infractions. Installment payment agreements would be limited to a maximum length of 90 days. (Veh. Code, 42007(a)(2).) Defendants would submit the certificate of completion for attendance of traffic violator school to the court at the time that the final payment is due. (*Id.*) If a defendant fails to pay an installment, the court may convert the fee to bail, declare it forfeited, and report the forfeiture as a conviction under Vehicle Code section 1803. (Veh. Code, 42007(a)(3).) The court may also charge a failure to pay and impose a civil assessment after a 10-day notice or issue and arrest warrant. (*Id.*)

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Attachment

NAME OF COURT: SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	<i>FOR COURT USE ONLY</i>
<b>PEOPLE OF THE STATE OF CALIFORNIA</b> <b>vs.</b> DEFENDANT: _____	
<b>AGREEMENT FOR INSTALLMENT PAYMENT OF BAIL AND BAIL FORFEITURE</b> <b>(Vehicle Code, § 40510.5)</b>	
<div style="border: 1px solid black; padding: 2px; display: inline-block;">TO THE CLERK OF THE COURT:</div>	CITATION NUMBER: _____
	CASE NUMBER: _____

I, THE UNDERSIGNED, STATE THAT:

1. I am the defendant in the above-entitled action in which I am charged with the following nonparking infraction violation(s) of the Vehicle Code or infraction violation(s) of an ordinance adopted under the Vehicle Code that does (do) not require a mandatory court appearance or proof of correction:

- |                  |                  |
|------------------|------------------|
| a. Section _____ | c. Section _____ |
| b. Section _____ | d. Section _____ |

2. I understand that by choosing to request deposit of bail and forfeiture in installments and not personally appearing in court, I am giving up the following rights:

- (a) to appear in court for formal arraignment, plea, and sentencing;
- (b) to contest the charges;
- (c) to be represented by an attorney at my expense;
- (d) to have a speedy court trial and have dismissal of charges if a speedy trial is requested but not provided;
- (e) to confront and cross-examine all witnesses testifying against me;
- (f) to subpoena or present witnesses and physical evidence on my own behalf; and
- (g) to remain silent.

[Initial the box for each statement]

**My signature on this form is an acknowledgment that I understand and give up each of these rights.**

- 3. I understand that the total bail (including all penalties and assessments) for the violation(s) is \$ \_\_\_\_\_
- 4. I wish to post and forfeit bail and understand that by doing so I will stand convicted of the violation(s).
- 5. At this time, however, I am unable to deposit the full amount of bail and request permission to do so in installments.
- 6. I understand that the court is not required to accept bail in installments, I attest that the date of my promise to appear or any lawful continuance of that date has not expired, and I understand that my appearance date will be continued to the date that the final bail deposit installment is paid.
- 7. I understand that all payments must be made on the due date, that there is no grace period, and that if I do not make a payment as required, the balance of bail then unpaid will become immediately due and payable.

(Agreement continued on reverse)

PEOPLE v. DEFENDANT (Name): _____	CASE NUMBER: _____
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8. I UNDERSTAND THAT IF I DO NOT MAKE THE PAYMENT BY \_\_\_ P.M. ON EACH DUE DATE, I MAY BE CHARGED WITH A MISDEMEANOR UNDER VEHICLE CODE SECTION 40508 AND THAT I WILL BE SUBJECT TO THE PENALTIES OF PENAL CODE SECTION 1214.1, INCLUDING A CIVIL ASSESSMENT OF UP TO \$300. I ALSO UNDERSTAND THAT A HOLD WILL BE PLACED WITH THE DEPARTMENT OF MOTOR VEHICLES THAT MAY AFFECT MY PRIVILEGE TO DRIVE AND THAT MY CASE COULD BE ASSIGNED TO A COLLECTION AGENCY OR THE STATE FRANCHISE TAX BOARD FOR COLLECTION.

**My signature on this form is an acknowledgement that I understand and accept the consequences described directly above of not complying with this agreement.**

9. In consideration of this agreement to accept bail in installments, and understanding that the court incurs costs and expenses by doing so, I agree to pay a \$[35] administrative fee in addition to the bail.

10. Accordingly, I agree to pay the total amount of \$ \_\_\_\_\_ as follows:

- \$ \_\_\_\_\_ [25 percent or more] immediately and installments of \$ \_\_\_\_\_ due:
- ( ) per month beginning on \_\_\_\_\_ and on or before the \_\_\_\_\_ day of each month thereafter until paid.
- ( ) weekly as follows \_\_\_\_\_
- ( ) other \_\_\_\_\_

11. I HEREBY PROMISE THAT IF I DO NOT MAKE MY PAYMENT BY \_\_\_ P.M. ON EACH DUE DATE, I WILL APPEAR BEFORE THE CLERK NO LATER THAN \_\_\_ P.M. ON THE NEXT COURT DATE AFTER THE DUE DATE OF THE PAYMENT. I UNDERSTAND THAT IF I DO NOT APPEAR AS PROMISED I WILL BE SUBJECT TO THE PENALTIES OF PENAL CODE SECTION 1214.1. I ALSO UNDERSTAND THAT A HOLD MAY BE PLACED WITH THE DEPARTMENT OF MOTOR VEHICLES THAT MAY AFFECT MY PRIVILEGE TO DRIVE AND THAT MY CASE COULD BE ASSIGNED TO A COLLECTION AGENCY OR THE STATE FRANCHISE TAX BOARD FOR COLLECTION.

**My signature below is an acknowledgement that I understand and accept the consequences described directly above of not complying with this agreement.**

12. If I pay as agreed, all amounts due will be paid by \_\_\_\_\_; at which time, if valid proof of correction has been submitted when so required, the forfeiture of bail deposits will be completed and no further proceedings will be held in this matter.

**By signing this form I acknowledge that I have reviewed and understand this form.**

Date:

(TYPE OR PRINT NAME)	(SIGNATURE OF DEFENDANT)
(LAST 4 DIGITS OF SOCIAL SECURITY NUMBER)	(ADDRESS)
(DRIVER'S LICENSE NUMBER)	(CITY, STATE AND ZIP CODE)
(EXP. DATE)	

INTERPRETER: I have read and explained all of the above to the defendant in the \_\_\_\_\_ language.

Date:

\_\_\_\_\_  
(INTERPRETER'S SIGNATURE)

ACCEPTED \_\_\_\_\_

CLERK OF THE SUPERIOR COURT

RECEIPT OF \$ \_\_\_\_\_

BY: \_\_\_\_\_

IS ACKNOWLEDGED

(DEPUTY CLERK)

NAME OF COURT: SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	<b>FOR COURT USE ONLY</b>
<b>PEOPLE OF THE STATE OF CALIFORNIA</b> <b>vs.</b> DEFENDANT:	
<b>INSTALLMENT PAYMENT OF TRAFFIC VIOLATOR SCHOOL FEES</b> <b>(Vehicle Code, § 42007)</b>	
<div style="border: 1px solid black; display: inline-block; padding: 2px;">TO THE CLERK OF THE COURT:</div>	CITATION NUMBER:
	CASE NUMBER:

I, THE UNDERSIGNED, STATE THAT:

1. I am the defendant in the above-entitled action in which I am charged with the following nonparking infraction violation(s) of the Vehicle Code or infraction violation(s) of an ordinance adopted under the Vehicle Code that does (do) not require a mandatory court appearance and is (are) eligible for dismissal for completion of traffic violator school:

- |                  |                  |
|------------------|------------------|
| a. Section _____ | c. Section _____ |
| b. Section _____ | d. Section _____ |

2. I understand that by choosing to request installment payment of the fees for traffic violator school and not personally appearing in court, I am giving up the following rights:

- (a) to appear in court for formal arraignment, plea, and sentencing;
- (b) to contest the charges;
- (c) to be represented by an attorney at my expense;
- (d) to have a speedy court trial and to have charges dismissed if a speedy trial is requested but not provided;
- (e) to confront and cross-examine all witnesses testifying against me;
- (f) to subpoena or present witnesses and physical evidence on my own behalf; and
- (g) to remain silent.

[Initial the box for each statement.]

**My signature on this form is an acknowledgment that I understand and give up each of these rights.**

- 3. I understand that the total fees for the violation(s) is \$ \_\_\_\_\_.
- 4. I wish to pay the traffic violator school fees and understand that by doing so and submitting the certificate of completion to the court by the due date, the violation(s) will be reported to the Department of Motor Vehicles as dismissed.
- 5. At this time, however, I am unable to pay the full amount of the fees and request permission to do so in installments.
- 6. I understand that the court is not required to accept the fees in installments, I attest that the date of my promise to appear or any lawful continuance of that date has not expired, and I understand that my appearance date will be continued to the date that the final fee installment is paid.
- 7. I understand that all payments must be made on the due date, that there is no grace period, and that if I do not make a payment as required, the balance of the fees then unpaid will become immediately due and payable.

(Agreement continued on reverse)

PEOPLE v. DEFENDANT (Name):	CASE NUMBER:
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8. I UNDERSTAND THAT IF I DO NOT MAKE THE PAYMENT BY \_\_\_\_ P.M. ON EACH DUE DATE, I MAY BE CHARGED WITH A MISDEMEANOR UNDER VEHICLE CODE SECTION 40508 AND THAT I WILL BE SUBJECT TO THE PENALTIES OF PENAL CODE SECTION 1214.1, INCLUDING A CIVIL ASSESSMENT OF UP TO \$300. I UNDERSTAND THAT A CONVICTION WILL BE REPORTED TO THE DEPARTMENT OF MOTOR VEHICLES ON MY DRIVING RECORD AND THAT MY CASE COULD BE ASSIGNED TO A COLLECTION AGENCY OR THE STATE FRANCHISE TAX BOARD FOR COLLECTION.

**My signature on this form is an acknowledgement that I understand and accept the consequences described directly above of not complying with this agreement.**

9. In consideration of this agreement to accept the fees in installments extended up to 90 days, and understanding that the court incurs costs and expenses by doing so, I agree to pay a \$[35] administrative fee in addition to the traffic violator school fees.

10. Accordingly, I agree to pay the total amount of \$ \_\_\_\_\_ as follows:

- \$ \_\_\_\_\_ [25 percent or more] immediately and installments of \$ \_\_\_\_\_ due:
- ( ) per month beginning on \_\_\_\_\_ and on or before the \_\_\_\_\_ day of each month thereafter until paid.
- ( ) weekly as follows \_\_\_\_\_
- ( ) other \_\_\_\_\_

11. I HEREBY PROMISE THAT IF I DO NOT MAKE MY PAYMENT BY \_\_\_\_ P.M. ON EACH DUE DATE, I WILL APPEAR BEFORE THE CLERK NO LATER THAN \_\_\_\_ P.M. ON THE NEXT COURT DATE AFTER THE DUE DATE OF THE PAYMENT. I UNDERSTAND THAT IF I DO NOT APPEAR AS PROMISED I WILL BE SUBJECT TO THE PENALTIES OF PENAL CODE SECTION 1214.1. I ALSO UNDERSTAND THAT A HOLD MAY BE PLACED WITH THE DEPARTMENT OF MOTOR VEHICLES THAT MAY AFFECT MY PRIVILEGE TO DRIVE AND THAT MY CASE COULD BE ASSIGNED TO A COLLECTION AGENCY OR THE STATE FRANCHISE TAX BOARD FOR COLLECTION.

**My signature below is an acknowledgement that I understand and accept the consequences described directly above of not complying with this agreement.**

12. If I pay as agreed, all amounts due will be paid by \_\_\_\_\_; at which time, if a certificate of completion has been submitted to the court, the fee payment will be completed and no further proceedings will be held in this matter.

**By signing this form I acknowledge that I have reviewed and understand this form.**

Date:

(TYPE OR PRINT NAME)	(SIGNATURE OF DEFENDANT)
(LAST 4 DIGITS OF SOCIAL SECURITY NUMBER)	(ADDRESS)
(DRIVER'S LICENSE NUMBER)	(CITY, STATE AND ZIP CODE)
(EXP. DATE)	

INTERPRETER: I have read and explained all of the above to the defendant in the \_\_\_\_\_ language.

Date:

\_\_\_\_\_  
(INTERPRETER'S SIGNATURE)

ACCEPTED \_\_\_\_\_

**CLERK OF THE SUPERIOR COURT**

RECEIPT OF \$ \_\_\_\_\_

BY: \_\_\_\_\_

IS ACKNOWLEDGED

(DEPUTY CLERK)

## Item SP08-02 Response Form

**Title:** Traffic Infractions: Installment Payment of Bail Forfeitures and Traffic Violator School Fees (adopt forms TR-300 and TR-310)

- Agree** with proposed changes
- Agree** with proposed changes **if modified**
- Do not agree** with proposed changes

Comments: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Organization: \_\_\_\_\_

- Commenting on behalf of an organization**

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Please **write** or **fax** or [respond using the Internet](#) to:

**Address:** Ms. Camilla Kieliger,  
Judicial Council, 455 Golden Gate Avenue,  
San Francisco, CA 94102

**Fax:** (415) 865-7664    **Attention:** Camilla Kieliger

**Internet:** <http://www.courtinfo.ca.gov/invitationstocomment/commentform.htm>

<b>DEADLINE FOR COMMENT: 5:00 p.m., Wednesday, January 16, 2008</b>
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Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council or the Rules and Projects Committee.  
All comments will become part of the public record of the council's action.*