

Date of Hearing: July 13, 2015

ASSEMBLY COMMITTEE ON TRANSPORTATION

Jim Frazier, Chair

SB 405 (Hertzberg) – As Amended July 7, 2015

SENATE VOTE: 39-1

SUBJECT: Failure to appear in court: fines.

SUMMARY: Requires courts to allow a person to schedule court proceedings, even if bail or a court-imposed civil assessment has been charged and not paid. Specifically, **this bill:**

- 1) Provides that the ability to post bail or to pay a court-imposed civil assessment is not a prerequisite to a person filing a request for the court to remove a civil assessment for failing to appear in court for a traffic violation, as specified.
- 2) States that imposition or collection of bail or a court-imposed civil assessment shall not prevent a person from scheduling a court hearing on the underlying charge.
- 3) Allows a person with a suspended driver's license as a result of failing to appear in court or paying the total bail in advance of requesting a hearing for a traffic violation, to appear in court and to request that their suspension be lifted if certain conditions are met.
- 4) Provides that the abovementioned provisions apply only to a person who has had their driver's license suspended from January 1, 2013, to December 31, 2015.
- 5) Makes technical conforming changes.

EXISTING LAW:

- 1) Provides that, in addition to any other penalty related to an infraction, misdemeanor, or felony, the court may impose a civil penalty up to \$300 against any defendant who fails to appear in court for any proceeding or fails to pay any portion of the fine ordered by the court.
- 2) Provides that the assessment shall not become effective until at least 10 calendar days after the court mails a warning to the defendant, and requires the court to vacate the order for the assessment if the person appears in time and shows good cause for the failure to appear or failure to pay the fine or installment of bail.
- 3) At the regulatory level, requires courts to allow a defendant to appear for arraignment and trial without deposit of bail on traffic infractions, except under certain circumstances.
- 4) At the regulatory level, provides that courts must inform defendants of the option to appear in court without the deposit of bail in any instructions or other materials that the courts provide for the public that relate to bail for traffic infractions. Courts must implement this subdivision as soon as reasonably possible but no later than September 15, 2015.

FISCAL EFFECT: Unknown

COMMENTS: A recent report published by a number of community groups, including the Western Center on Law and Poverty, found that courts throughout California were requiring persons with citations, including traffic violations, to pay the "total bail" or maximum fine amount prior to being provided a right to a hearing. In addition to a base fine, penalties, and fines tied to a traffic citation, existing law also permits a court to impose a \$300 civil assessment on a person who fails to appear on their scheduled court date. Under the existing statutory framework, the report found that a \$100 traffic citation would ultimately cost a person approximately \$800 if they failed to promptly pay their fines and appear in court. Furthermore, courts possess the authority to, and regularly do, suspend a person's driver's license for not paying fines all at once or not making their assigned court date, regardless of a person's circumstances. The report concluded that the current statutory framework creates unjust results with people who can afford to pay having access to a hearing while on the other hand, those who cannot, suffer substantial consequences – including a suspended driver's license.

Recognizing this system has created hardships for many people, emergency regulations were recently adopted that require courts to allow a defendant to appear for arraignment and trial without first paying the total fines on a traffic infraction. This rule states that courts must inform defendants of the option to appear in court without the deposit of bail in any instructions or other materials that the courts provide for the public that relate to bail for traffic infractions, including any website information, written instructions, courtesy notices, and forms. Courts are to implement this rule as soon as reasonably possible, but no later than September 15, 2015. However, the adopted regulations do not address access to courts in those situations where an individual missed the appearance on their traffic ticket, or failed to pay the traffic fine by the required court date, had their driver's license suspended as a result, and now is prevented from scheduling a court appearance until the total bail or civil assessment is paid. The *San Francisco Gate* reported that in 2013, while courts ordered 150,366 driver's license suspensions for more serious violations such as drunk driving, the courts ordered 510,811 driver's license suspensions for not paying traffic fines.

SB 405 intends to expand on the court's recently adopted regulations by allowing persons who had their driver's license suspended as a result of not paying total fines or failing to appear in court for a minor traffic violation to appear in court and request their driver's license suspension be lifted if they meet certain requirements. Under the current system, the Western Center on Law and Poverty asserts that "low income people who cannot afford to pay full bail, are effectively locked out of court. So, they cannot show good cause for their non-appearance, which means they cannot avail themselves of the benefits of the judge's other discretionary powers." Ultimately, a driver's license suspension under these circumstances may cause significant hardships including loss of employment, inability to transport children, or even having a family choose between food or paying down traffic fines.

The author claims, "due to increases in fines and fees, a staggering number of Californians have no access to courts when they are cited for traffic citations. Exorbitant fees can make it challenging for low-income people to resolve minor traffic infractions since many counties require fines to be paid prior to hearing the infraction. As a result of unclear policy and high fees, drivers do not have the opportunity to see a judge and essentially lose their right to due process." The author further notes that, under SB 405, providing access to courts will provide an estimated 4.2 million people with the opportunity to have their driver's license reinstated.

Double referral: This bill passed out of the Assembly Public Safety Committee on July 1, 2015, with a 6-0 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

AFSCME, Local 685
A New Way of Life Reentry Project
Alameda County Board of Supervisors
American Civil Liberties Union of California
Association of Deputy District Attorneys
California Association of Local Conservation Corps
California Department of Insurance
California Immigrant Policy Center
California Public Defenders Association
Compton Unified School District
Consumer Attorneys of California
Courage Campaign
Friends Committee on Legislation of California
Legal Services for Prisoners with Children
Los Angeles Deputy Sheriffs
Los Angeles Police Protective League
Los Angeles Probation Officers' Union
National Association of Social Workers, California Chapter
Personal Insurance Federation of California
Western Center on Law and Poverty

Opposition

None on file

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