

2018-19 Trailer Bill Language
Judicial Branch of California
Pilot Project for Online Adjudication of Traffic Violations

SECTION 1. Chapter 1.5 (commencing with Section 40280) is added to Division 17 of the Vehicle Code, to read:

Chapter 1.5 Pilot Program for Online Adjudication of Infraction Violations of This Code

40280. It is the intent of the Legislature to create a pilot program to increase access to the courts by authorizing the online adjudication of infraction violations of this Code and by authorizing online ability-to-pay determinations. It is further the intent of the Legislature to permit a pilot court to reduce, waive, or suspend bail, base fines, fees (including mandatory fees), penalties, and civil assessments, as part of any ability-to-pay determination.

40281. The Judicial Council shall sponsor a pilot program to facilitate online adjudication of infraction violations of this Code for which a personal appearance is not required. The Judicial Council may select one or more courts that are willing to participate in the program.

40282. As part of the pilot program, the Judicial Council, through its delegates, shall develop an online tool for adjudicating infraction violations.

(a) A pilot court may offer full online scheduling and adjudication of traffic infractions; including allowing a defendant to do any of the following:

- (1) Agree to post and forfeit bail;
- (2) Request to forfeit bail in installments pursuant to section 40510.5;
- (3) Request an online trial;
- (4) Request a continuance;
- (5) Request a date to appear in court; or
- (6) Request an ability-to-pay determination.

(b) A pilot court need not adopt the online tool in its totality, but shall have the discretion to select from among those features of the online tool that it elects to make available to defendants in its court.

(c) No pilot court may compel a defendant to use the online tool.

40283. Notwithstanding any other provision of law, a pilot court may, by adopting a local rule, make ability-to-pay determinations under any of the procedures authorized in this section.

(a) A pilot court may allow defendants to agree to forfeit bail, plead guilty, or plead nolo contendere, subject to a subsequent ability-to-pay determination. For purposes of this subdivision:

- (1) A defendant need not post bail prior to an ability-to-pay determination.

(2) The date that the defendant agrees to forfeit bail, plead guilty, or plead nolo contendere shall be reported as the date of conviction for purposes of reporting violations of this Code to the department under section 1803.

(3) If a defendant agrees to forfeit bail, plead guilty, or plead nolo contendere, subject to an ability-to-pay determination, the matter will be considered adjudicated for purposes of an ability-to-pay determination.

(b) Based on any ability-to-pay determination, a pilot court may:

(1) Waive or reduce the sum of the total amount due on an infraction.

(2) Extend the time for payment or provide for payment on an installment plan, including those amounts due after any reduction under subdivision (b)(1) of this section;

(3) Allow the defendant to complete community service in lieu of the total amount due. The court may elect to reduce the total amount due as defined in subdivision (b)(1) of this section first, and allow the defendant to complete community service in lieu of payment on the reduced amount;

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

(5) Offer an alternative disposition.

(c) A court may consider ability-to-pay determination requests submitted through an online tool.

(d) For purposes of this section, the “total amount due” is defined as the sum of the base fine, penalty assessments, civil assessments, and fees, including mandatory fees, owed and unpaid by the defendant.

40284. If a court elects to make available any of the procedures in 40283, the following shall apply to determinations made under those procedures:

(a) The defendant shall have the burden of establishing that he or she does not have the ability to pay.

(b) The court shall have the discretion to make an order consistent with the defendant’s present and reasonably discernible future financial circumstances.

(c) The court is not required to make express findings as to the factors bearing on the determination or the amount it orders payable by the defendant.

(d) After an initial ability-to-pay determination, a defendant may make additional ability-to-pay requests only:

(1) If all or a portion of the amount the court ordered payable by the defendant remains unpaid; and

(2) The defendant can show a change in financial circumstances regarding his or her ability to pay.

(e) All pilot courts shall comply with section 42003 and Rule 4.335 of the California Rules of Court.

40285. A pilot court that allows ability-to-pay determinations to be made through an online tool may allow the online tool to electronically verify whether the defendant receives public benefits, defined as any of the public benefits listed in subdivision (a) of section 68632 of the Government Code, by

accessing a statewide, county, or other political subdivision of the state database, including, but not limited to, the Department of Social Services.

(a) The court must obtain the defendant's consent before the online application may electronically verify benefits.

(b) The online application shall:

(1) Present the results of the verification to a defendant for his or her review;

(2) Inquire whether the defendant wants to submit the results in support of his or her ability-to-pay petition;

(3) Verify only whether the defendant is presently receiving public benefits and the type of public benefits;

(4) Notify the court of the query only if the defendant consents to presenting the results to the court.

(5) The online application must inform defendants that:

(A) They have the burden of establishing inability to pay;

(B) The verification is but one possible means of substantiating their inability to pay; and

(C) They may upload other evidence in addition to or in lieu of the verification results.

40286. Each pilot court may, by adopting a local rule, authorize the clerk of the court to make ability-to-pay determinations on requests submitted through the use of an online tool. If a pilot court authorizes the clerk of the court to make such determinations:

(a) The determinations shall be based on specified criteria as established by the pilot court and posted on its website. Such criteria may include whether the defendant is receiving public benefits, including those listed in subdivision (a) of section 68632 of the Government Code. The pilot court may establish criteria that waive or reduce the sum of the base fine, penalty assessments, civil assessments, and fees, including mandatory fees, owed by the defendant:

(1) By a specified amount,

(2) By a specified percentage, or

(3) By other specified criteria.

(b) The court must obtain the defendant's consent for the clerk to make the determination.

(c) A defendant shall have the right to review by a judicial officer of any ability-to-pay determination made pursuant to subdivision (a) upon a written request made within ten days of the determination.

(d) The court shall give the defendant notice electronically accompanying the determination that it has been reached by the clerk of the court through use of a formula adopted by the court and that the defendant has a right to review by a judicial officer.

40287. A pilot court may offer online trials through an online tool as part of the pilot program. If a pilot court elects to offer online trials as part of the pilot program, it shall also continue to make trials by written declaration under section 40902 available to defendants. Where a pilot court makes online trials available to defendants, and notwithstanding section 40902, the following shall apply to all online trials and trials by written declaration adjudicated during the pilot:

(a) A defendant must elect to have an online trial or trial by written declaration prior to the appearance date indicated on the Notice to Appear, unless the court grants the defendant an extension, or the court permits the defendant to have an online trial or trial by written declaration at a later date.

(b) If a defendant elects to have a trial through the online tool or trial by written declaration, the court may not require the defendant submit bail in advance, unless the court makes express findings as to why a particular defendant shall be required to post bail.

(c) Testimony and other relevant evidence may be introduced in the form of a Notice to Appear issued under section 40500; a business record or receipt; a sworn declaration of the arresting officer; and, on behalf of the defendant, a sworn declaration of the defendant.

(d) If a defendant elects to have a trial through the online tool or trial by written declaration, there shall be no right to a trial de novo.

(e) The pilot court may adopt local rules or forms to the extent necessary to be consistent with this subdivision, and such rules and forms will govern proceedings under this subdivision during the pilot that would otherwise have been governed by the forms and California Rules of Court adopted by the Judicial Council.

40288.

(a) The Judicial Council may adopt such rules and forms as may be necessary or appropriate to implement this chapter.

(b) No later than December 31, 2021, the Judicial Council shall report to the Legislature on implementation of the pilot and may include information on any cost savings or increases, any reduction in amounts owed, or payment compliance.

(c) This chapter shall become inoperative on December 31, 2021, and as of January 1, 2022 is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2022, deletes or extends the dates on which it becomes inoperative and is repealed.