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An act to add and repeal Chapter 1.5 (commencing with Section 40280)
of Division 17 of the Vehicle Code, relating to traffic violations.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

CHAPTER 1.5. ONLINE ADJUDICATION OF MINOR TRAFFIC VIOLATIONS PILOT PROGRAM

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

(b) 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.
- (6) Request an ability-to-pay determination.

(c) 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.

(d) A pilot court may not compel a defendant to use the online tool.

40283. Notwithstanding any other 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, the following apply:

- (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 do any of the following:

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



(2) Extend the time for payment or provide for payment on an installment plan, including those amounts due after any reduction under paragraph (1).

(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 provided in paragraph (1) 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.

(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 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 Section 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 if all or a portion of the amount the court ordered payable by the defendant remains unpaid and 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) 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 State Department of Social Services.

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

(c) The online application shall do all of the following:

(1) Present the results of the verification described in subdivision (a) 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 shall inform the defendant of the following:

(A) A defendant has the burden of establishing his or her inability to pay.



(B) The verification is only one possible means of substantiating the inability to pay.

(C) A defendant 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 those determinations, the following shall apply:

(a) The determinations shall be based on specified criteria as established by the pilot court and posted on its Internet Web site. The 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, by a specified amount, by a specified percentage, or by other specified criteria.

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

(c) A defendant shall have the right to a review by a judicial officer of any ability-to-pay determination made pursuant to subdivision (a) upon a written request made within 10 days of the determination.

(d) The court shall give the defendant notice electronically, accompanying the determination that has been reached by the clerk of the court through use of a formula adopted by the court, that the defendant has the right to a review of the ability-to-pay determination 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. If a pilot court makes online trials available to defendants, the following shall apply to all online trials and trials by written declaration adjudicated during the pilot, notwithstanding Section 40902:

(a) A defendant shall 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 shall not require the defendant to submit bail in advance, unless the court makes express findings as to why a particular defendant is 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 a sworn declaration by the defendant on behalf of the defendant.

(d) If a defendant elects to have a trial through the online tool or trial by written declaration, there is 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 section, and the rules and forms shall govern proceedings under



this section 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 shall adopt those rules and forms as may be necessary or appropriate to implement this chapter.

(b) No later than January 1, 2022, 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. The report shall be submitted in compliance with Section 9795 of the Government Code.

(c) This chapter shall remain in effect only until January 1, 2022, and as of that date is repealed.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, _____
General Subject: Traffic violations: criminal procedure: online adjudication pilot program.

Existing law establishes procedures for adjudicating traffic violations. Under existing law, the court may provide for the trial of any alleged infraction involving a violation of the Vehicle Code, or any local ordinance adopted pursuant to that code, and the court is required to provide that the defendant may elect to have a trial by written declaration upon any of these alleged infractions.

This bill would, until January 1, 2022, require the Judicial Council to sponsor a pilot program to facilitate online adjudication of infraction violations of the Vehicle Code for which a personal appearance is not required. The bill would authorize the council to select one or more courts that are willing to participate in the program. The bill would allow a defendant, pursuant to the online pilot program, to agree to post and forfeit bail, to request an online trial, or to request an ability-to-pay determination. The bill would authorize the pilot court, among other dispositions, to waive, reduce, or suspend the amount due, in whole or in part, extend the time for payment or establish an installment plan, or allow community service in lieu of the amount due. The bill would establish procedures for determining a defendant's ability to pay. The bill would require the Judicial Council to submit a report on the implementation of the pilot program to the Legislature by January 1, 2022.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

