



Infraction Amnesty Program Guidelines

AS MANDATED BY VEHICLE CODE
SECTION 42008.7



JUDICIAL COUNCIL
OF CALIFORNIA

Administrative Office of the Courts
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INFRACTION AMNESTY PROGRAM GUIDELINES

I. Program Authority

In October 2010, Senate Bill 857 (Stats. 2010, ch. 720) added section 42008.7 to the Vehicle Code. (Attachment A) The statute authorizes and sets the general guidelines for a one-time mandatory infraction amnesty program in each county for bail and fines meeting the eligibility requirements. The section requires that the infraction amnesty program be implemented in accordance with guidelines adopted by the Judicial Council.

These infraction amnesty program guidelines may not address every situation involving a collection program's implementation. Courts and counties should consider the "intent" of the infraction amnesty program when developing local policies and procedures for their infraction amnesty program.

II. Purpose of Amnesty Program

The purpose of the one-time infraction amnesty program is to provide relief to individuals who have found themselves in violation of a court-ordered obligation because they have been unable to pay an infraction bail or fine. The infraction amnesty program will provide increased revenue at a time when revenue is scarce by encouraging payment of old debt that has remained unpaid and allow court and county collection programs to resolve older delinquent cases and focus limited resources on collecting on more recent cases.

III. Court and County Participation

Unless agreed otherwise by the court and the county in writing, the government entities that are responsible for the collection of delinquent court-ordered debt under Penal Code section 1463.010(b) will be responsible for implementation of the infraction amnesty program as to that debt. Juvenile traffic infractions are included in the infraction amnesty program.

IV. Program Costs

Any unreimbursed costs of operating the infraction amnesty program, excluding capital expenditures, may be deducted from the revenues collected under the infraction amnesty program by the court and/or county collection program that incurred the expense. To recover costs under the infraction amnesty program, a collection program does not have to be comprehensive, as defined in Penal Code section 1463.007.

Refer to the Judicial Council's *Cost Recovery Guidelines and Standards* available at:
<http://serranus.courtinfo.ca.gov/programs/collections/cr.htm> or
<http://www2.courtinfo.ca.gov/collections/>

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V. Amnesty Period

The one-time infraction amnesty program will operate between January 1, 2012, and June 30, 2012.

VI. Eligibility

- a. All adult and juvenile vehicle and nonvehicle infraction violations where a delinquent bail or fine was due on or before January 1, 2009, are eligible for the infraction amnesty program. Under Vehicle Code section 42008.7, the terms “bail” and “fine” refer to the total bail amount or fine balance due in connection with a specific Vehicle Code or non-Vehicle Code infraction.
- b. Violations are eligible for amnesty only if each of the following requirements is met:
 1. The violation is an infraction filed with the court.
 2. The due date for payment of the bail or fine was on or before January 1, 2009.
 - A failure-to-appear case is eligible for amnesty *if* the case is currently on failure-to-appear status and the appearance date was on or before January 1, 2009.
 - A failure-to-pay case is eligible for amnesty *if* the fine due date and last payment made on an installment plan or accounts receivable were on or before January 1, 2009.
 3. The defendant does not owe victim restitution on any case within the county.
 4. The defendant has no outstanding misdemeanor or felony warrants within the county.
- c. To qualify, the defendant must pay 50 percent of the delinquent bail amount or fine balance in full satisfaction of the debt under the infraction amnesty program and meet all requirements listed above in section b. A defendant is not required to apply in writing or request amnesty in order for the violation to be eligible. Amnesty is granted at the time an eligible defendant makes payment.

VII. Payment Processing

Vehicle Code section 42008.7 requires that each infraction amnesty program accept, in full satisfaction of any eligible bail or fine, 50 percent of the bail amount or fine balance. The remaining 50 percent of the bail amount or fine balance is to be suspended or adjusted to zero in the court and/or county records.

- a. Payment under the infraction amnesty program can be made by cash, cashier’s check, money order, or credit card. Personal checks may be accepted, although it is recommended that Department of Motor Vehicle holds or suspensions be released *after* the personal check clears.

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- b. Payment under the infraction amnesty program must be made in one lump sum.
- c. The calculation of the fine, fees, penalties, and assessments on eligible violations will be calculated in the same manner as delinquent cases based on the collecting entity's current policies and procedures.
- d. The total amount of revenue collected under the infraction amnesty program will be deposited in the county treasury and/or the account established under Government Code section 77009.
- e. The program must maintain a separate and distinct accounting of all revenues collected and operating costs expended under the infraction amnesty program.
- f. No criminal action on the eligible case may be brought against a person after payment of a delinquent bail amount or fine balance paid under the infraction amnesty program.

VIII. Department of Motor Vehicles (DMV) Abstract

Upon payment, a court will notify the DMV as required by law.

IX. Reporting Requirements

Each court and/or county collection program will file a report with the Judicial Council, in a format approved by the Judicial Council, no later than September 30, 2012. (Attachment B)

The report must include monthly information related to the number of cases resolved, the amount of money collected, and the operating costs of the infraction amnesty program. Reports may be submitted electronically to the Enhanced Collections Unit at collections@jud.ca.gov or faxed to 818-558-3112.

X. Distribution

Revenue collected under the infraction amnesty program will be distributed on a pro rata basis based on the distribution guidelines for the applicable year designated in Appendix C of the State Controller's *Manual of Accounting and Audit Guidelines for Trial Courts* and applicable law, without regard to the priorities listed in Penal Code section 1203.1(d). The State Controller's manual and the State Controller's Office *Assembly Bill 3000 Court Surcharge Distribution Guidelines* are available at:

www.sco.ca.gov/Files-ARDLocal/LocRep/Appendix_C_v22edited.pdf and www.sco.ca.gov/Files-ARD-Local/acctng_guidelines_ab3000guidelines.pdf

For accounts where a partial payment has been made and distributed based on Penal Code section 1203.1(d) priorities, the remaining balance collected under the infraction amnesty program, at the reduced rate of 50 percent, must be distributed pro rata among only the state and local government funds that did not receive their share of the revenues, in accordance with the California State Controller's *Manual of Accounting and Audit Guidelines for Trial Courts*.

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For example, an account with an outstanding fine of \$471 is set up on installment payments. The defendant made two payments of \$100 each before defaulting on the payment plan in October 2008. Of the \$200 paid, \$20 was distributed to the second priority and \$180 to the third priority. Because only 50 percent of the remaining \$271 is eligible for amnesty, upon receipt of a \$135.50 payment, the funds must be distributed pro rata between the remaining items in priorities 3 and 4. Eligible operating costs, including commission fees, are prorated as usual among all funds, prior to the final distribution.

Refer to the Judicial Council's *Cost Recovery Guidelines and Standards* available at: <http://serranus.courtinfo.ca.gov/programs/collections/cr.htm> or www2.courtinfo.ca.gov/collections

XI. Infraction Amnesty Program Action Plan

Administrative Office of the Courts

The Administrative Office of the Courts Enhanced Collections Unit will:

- Develop and distribute the infraction amnesty program guidelines, as approved by the Judicial Council, to court and county collecting entities no later than November 1, 2011;
- Assist, upon request, with the coordination of statewide and local media campaigns;
- Assist, upon request, with the distribution of advertising materials for the court and county collection programs and justice partners; and
- Report infraction amnesty program-related information to the Judicial Council for inclusion in the required report to the Legislature.

Courts and Counties

Courts and counties should collaborate in developing local policies and procedures for the implementation of the infraction amnesty program authorized under Vehicle Code section 42008.7. In order for the infraction amnesty program to be implemented successfully, each court and county should develop a joint process for the following:

- Accepting and posting payments made through the infraction amnesty program;
- Maintaining separate and distinct accounting of all revenues collected under the infraction amnesty program;
- Determining eligibility on individual cases based on criteria established in Vehicle Code section 42008.7;
- Tracking and reporting monthly operating costs;
- Tracking and reporting the monthly number of cases resolved;
- Tracking and reporting the monthly revenue collected under the infraction amnesty program; and
- Tracking and reporting recovered costs.

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It is further recommended that the court and county consider developing a joint procedure for the following:

- Distributing advertising materials to justice partners and private collection vendors;
- Designating staff at each court or county satellite location to process all amnesty payments received by mail or in person;
- If cost effective, contracting with a amnesty vendor or amending an existing participation agreement with a vendor under the collections master agreement or revising an existing contract or agreement with any other collections vendor to help meet the requirements of the infraction amnesty program; and
- If cost effective, identifying cases eligible for amnesty and mailing information in writing (amnesty notice or postcard) about the infraction amnesty program to those debtors for whom a valid address is available.

Private Vendor

A private vendor's responsibility as it pertains to the collection of amnesty-eligible cases is outlined in the amnesty master agreement (to be posted in Serranus at <http://serranus.courtinfo.ca.gov/programs/collections/cr.htm> and the Enhanced Collections external website at www2.courtinfo.ca.gov/collections).

Franchise Tax Board

Because of its current system limitations and inability to separate cases by violation type, the Franchise Tax Board Court-Ordered Debt Program (FTB-COD) cannot participate fully in the infraction amnesty program. It is recommended that collection programs recall an amnesty-eligible case from the FTB-COD only after the 50 percent payment has been made. Over 40 court and county collection programs refer cases to the FTB-COD for the collection of delinquent court-ordered debt. The FTB-COD has identified more than 55,000 infraction, misdemeanor, and felony cases that have been referred to it with a due date prior to January 1, 2009.

XII. Example Calculations

The following examples are for illustrative purposes only and do not contain all possible fines, fees, penalties, or assessments eligible for the infraction amnesty program under Vehicle Code section 42008.7. Each example shows the calculation of total fine and penalty assessments but not the distribution of amounts received. Courts and counties are responsible for inputting local information; the Administrative Office of the Courts assumes no liability for the failure of not including this information.

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- Example 1: Failure to appear; charge is a single Vehicle Code infraction violation with one prior violation
- Example 2: Failure to pay; charge is a single Vehicle Code infraction violation by a juvenile filed in Informal and Juvenile Traffic Court
- Example 3: Failure to pay; charge is a single non-Vehicle Code infraction violation
- Example 4: Failure to appear, multiple Vehicle Code infraction violations

Example 1: Failure to Appear; Single Vehicle Code Infraction Violation With One Prior¹

Factors:

1. Violation is an infraction under Vehicle Code section 22349(a), *Speeding 1–15 MPH over 65 MPH Limit*, plus one prior conviction of Vehicle Code section 22349.
2. Traffic citation was issued on March 2, 2005; appearance/payment due date was April 7, 2005.
3. Defendant failed to appear and account became delinquent on July 28, 2005.
4. Additional fees include prior conviction monitoring and civil assessment for failure to appear.
5. Total amount of \$415 is eligible for amnesty. The \$207.50 should be distributed pro rata between funds as appropriate.

Vehicle Code Infraction	Original Amount Due	Infraction Amnesty Program: 50% Due
Base bail of \$25, plus 1 prior (\$10 added)	\$35.00	\$17.50
State surcharge, 20% of base, per PC 1465.7	\$7.00	\$3.50
State PA, \$10 on every \$10, per PC 1464.4(a)	\$40.00	\$20.00
County PA, \$7 on every \$10, per GC 76000(a)(e)	\$28.00	\$14.00
Court PA, \$5 of every \$10, per GC 76000 ²	\$20.00	\$10.00
DNA PA, \$1 for every \$10, per GC 76104.6	\$4.00	\$2.00
Administrative fee (prior record), per VC 40508.6	\$10.00	\$5.00
Night court (VC 42006)	\$1.00	\$0.50
Court security fee, \$20, per PC 1465.8	\$20.00	\$10.00
Civil assessment, up to \$250, per PC 1214.1 ³	\$250.00	\$125.00
Total bail amount due	\$415.00	\$207.50

¹ Fine, fees, and penalty assessments (PA) based on 2005 Uniform Bail and Penalty Schedules.

² Penalty assessment (courthouse construction) amount may differ between counties; please verify for each example.

³ Civil assessment increase from \$250 up to \$300 effective July 19, 2005 (AB 139; Stats. 2005, ch 75).

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Example 2: Failure to Appear; Single Vehicle Code Infraction Violation by a Juvenile Filed in Adult Traffic Court⁴

Factors:

1. Violation is an infraction under Vehicle Code section 22108, *Signal Required Before Turning or Changing Lanes*.
2. Traffic citation was issued on January 5, 2006; appearance/payment due date was February 6, 2006.
3. Juvenile does not appear.
4. Additional fees include civil assessment for failure to appear.
5. Total balance amount of \$434 is eligible for amnesty. The \$217 should be distributed pro rata between funds as appropriate.

Vehicle Code Infraction	Original Amount Due	Infraction Amnesty Program: 50% Due
Base fine	\$35.00	\$17.50
State surcharge, 20% of base, per PC 1465.7	\$7.00	\$3.50
State PA, \$10 on every \$10, per PC 1464.4(a)	\$40.00	\$20.00
County PA, \$7 on every \$10, per GC 76000(a)(e)	\$28.00	\$14.00
Court PA, \$5 of every \$10, per GC 76000	\$20.00	\$10.00
DNA PA, \$1 for every \$10, per GC 76104.6	\$4.00	\$2.00
Civil Assessment up to \$300, per PC 1214.1 ⁵	\$300.00	\$150.00
Total bail amount due	\$434.00	\$217.00

⁴ Fine, fees, and penalty assessments (PA) based on 2006 Uniform Bail and Penalty Schedules.

⁵ SB 676 (effective January 2010) amended Penal Code section 1205(d); dropped the \$35 maximum and changed to actual cost. The accounts receivable fee of up to \$30 remained the same.

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Example 3: Failure to Pay; Single Non-Vehicle Code Infraction Violation⁶

Factors:

1. Violation is a non-Vehicle Code infraction of Parks and Recreation section 4312(e), *No Dogs or Cats in Area Unless on a Leash*.
2. Citation was issued on September 10, 2007; payment/appearance due date was October 12, 2007.
3. Defendant appears and fine of \$190 is imposed; accounts receivable with due date of March 10, 2008 is established. Payment is not made and account becomes delinquent on March 11, 2008.
4. Additional fees include civil assessment for failure to pay and court security and accounts receivable fee
5. Total fine balance of \$540 is eligible for amnesty. The \$270 should be distributed pro rata between funds as appropriate.

Non-Vehicle Code Infraction	Original Amount Due	Infraction Amnesty Program: 50% Due
Base fine	\$50.00	\$25.00
State surcharge, 20% of base, per PC 1465.7	\$10.00	\$5.00
State PA, \$10 on every \$10, per PC 1464.4(a)	\$50.00	\$25.00
County PA, \$7 on every \$10, per GC 76000(a)(e), \$7 of \$10	\$35.00	\$17.50
Court PA, \$5 of every \$10, per GC 76000,	\$25.00	\$12.50
EMS PA, \$2 for every \$10, per GC 76000.5 ⁷	\$10.00	\$5.00
DNA PA, \$2 for every \$10, per GC 76104.6 and 76104.7 ⁸	\$10.00	\$5.00
Civil assessment, up to \$300, per PC 1214.1	\$300.00	\$150.00
Court security fee, \$20, per PC 1465.8	\$20.00	\$10.00
Accounts receivable fee, per PC 1205(d)	\$30.00	\$15.00
Total fine balance due	\$540.00	\$270.00

⁶ Fine, fees, and penalty assessments (PA) based on 2007 Uniform Bail and Penalty Schedules.

⁷ EMS "additional" penalty assessment, under Government Code section 76000.5, if approved by board of supervisors.

⁸ DNA penalty assessment, additional \$1 for every \$10, under Government Code section 76104.7.

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Example 4: Failure to Pay; Multiple Vehicle Code Infraction Violations⁹

Factors

1. Charge is multiple Vehicle Code infractions:
 - Vehicle Code section 21453(a), *Red-Signal Vehicle Responsibility*;
 - Vehicle Code section, *Signal Required Before Turning or Changing Lanes*; and
 - Vehicle Code section 24252(a), *Maintenance of Lamps and Devices Required*.
2. Citation was issued on February 4, 2008; payment/appearance due date was March 10, 2008.
3. Defendant appears and a fine is imposed. Defendant agrees to installment payment plan of \$30 per month; a total of \$0 is paid.
4. Additional fees include civil assessment for failure to pay and court security and installment payment fees.
5. Total fine balance eligible for amnesty is \$1003. The \$501.50 should be distributed pro rata between funds as appropriate.

Vehicle Code Infraction	Original Amount Due	50% of Balance Due: Infraction Amnesty Program
Base fine, first violation (VC 21453(a))	\$100.00	\$50.00
Base fine, second violation (VC 22108)— Correctable	\$35.00	\$17.50
Base fine, third violation (VC 24252(a))	\$25.00	\$12.50
Subtotal base bail	\$160.00	\$80.00
State surcharge, 20% of base, per PC 1465.7	\$32.00	\$16.00
State PA, \$10 for every \$10, per PC 1464.4(a)	\$160.00	\$80.00
County PA, \$7 for every \$10, per GC 76000(a)(e)	\$112.00	\$56.00
Court PA, \$5 of every \$10, per GC 76000	\$80.00	\$40.00
DNA PA, \$2 for every \$10, per GC 76104.6 and 76104.7	\$32.00	\$16.00
EMS PA, \$2 for every \$10, per GC 76000.5	\$32.00	\$16.00
Court security fee, \$20, per PC 1465.8	\$60.00	\$30.00
Installment payment plan fee, per PC 1205(d)	\$35.00	\$17.50
Civil assessment	\$300.00	\$150.00
Total fine balance due	\$1003.00	\$501.50

⁹ Fine, fees, and penalty assessments (PA) based on 2008 Uniform Bail and Penalty Schedules.

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Vehicle Code Section 42008.7

42008.7. (a) The State of California continues to face a fiscal and economic crisis affecting the state budget and the overall state economy. In light of this crisis, a one-time infraction amnesty program would do the following:

(1) Provide relief to individuals who have found themselves in violation of a court-ordered obligation because they are financially unable to pay traffic bail or fines.

(2) Provide increased revenue at a time when revenue is scarce by encouraging payment of old fines that have remained unpaid.

(3) Allow courts and counties to resolve older delinquent cases and focus limited resources on collecting on more recent cases.

(b) A one-time amnesty program for fines and bail meeting the eligibility requirements set forth in subdivision (d) shall be established in each county. Unless agreed otherwise by the court and the county in writing, the government entities that are responsible for the collection of delinquent court-ordered debt shall be responsible for implementation of the amnesty program as to that debt, maintaining the same division of responsibility in place with respect to the collection of court-ordered debt under subdivision (b) of Section 1463.010 of the Penal Code.

(c) As used in this section, the term "fine" or "bail" refers to the total amounts due in connection with a specific violation, which include, but are not limited to, the following:

(1) Base fine or bail, as established by court order, by statute, or by the court's bail schedule.

(2) Penalty assessments imposed pursuant to Section 1464 of the Penal Code and Sections 76000, 70372, 76104.6, 76104.7, and 76000.5 of the Government Code.

(3) Civil assessment imposed pursuant to Section 1214.1 of the Penal Code.

(4) State surcharge imposed pursuant to Section 1465.7 of the Penal Code.

(5) Court security fee imposed pursuant to Section 1465.8 of the Penal Code.

(d) Violations are only eligible for amnesty if all of the following requirements are met:

(1) The violation is an infraction violation filed with the court.

(2) The due date for payment of the fine or bail was on or before January 1, 2009.

(3) The defendant does not owe victim restitution on any case within the county.

(4) There are no outstanding misdemeanor or felony warrants for the defendant within the county.

(e) Each amnesty program shall accept, in full satisfaction of any eligible fine or bail, 50 percent of the fine or bail amount, as defined in subdivision (c) of this section. Payment of a fine or bail under an amnesty program implemented pursuant to this section shall be accepted beginning January 1, 2012, and ending June 30, 2012. The Judicial Council shall adopt guidelines for the amnesty program no later than November 1, 2011, and each program shall be conducted in accordance with Judicial Council guidelines.

(f) No criminal action shall be brought against a person for a delinquent fine or bail paid under the amnesty program.

(g) The total amount of funds collected under the amnesty program shall as soon as practical after receipt thereof be deposited in the county treasury or the account established under Section 77009 of the Government Code. Any

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unreimbursed costs of operating the amnesty program, excluding capital expenditures, may be deducted from the revenues collected under the amnesty program by the court or the county that incurred the expense of operating the program. Notwithstanding Section 1203.1d of the Penal Code, the remaining revenues collected under the amnesty program shall be distributed on a pro rata basis in the same manner as a partial payment distributed pursuant to Section 1462.5 of the Penal Code.

(h) Each court or county implementing an amnesty program shall file, not later than September 30, 2012, a written report with the Judicial Council, on a form approved by the Judicial Council. The report shall include information about the number of cases resolved, the amount of money collected, and the operating costs of the amnesty program. Notwithstanding Section 10231.5 of the Government Code, on or before December 31, 2012, the Judicial Council shall submit a report to the Legislature summarizing the information provided by each court or county.

Infraction Amnesty Program Collections Report
January 1, 2012, through June 30, 2012
Court/County: _____

	Number of Accounts Resolved	Revenue Collected	Program Operating Cost	Recovered Cost
January				
February				
March				
April				
May				
June				
TOTAL		\$0	\$0	\$0

Completed by: _____

Name: _____

Title: _____

Phone No.: _____

E-mail: _____