



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on August 21, 2015

Title	Agenda Item Type
Judicial Administration: Statewide Traffic Tickets/Infraction Amnesty Program	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
N/A	August 21, 2015
Recommended by	Date of Report
Court Executives Advisory Committee	August 14, 2015
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Executive Summary

The Court Executives Advisory Committee and Judicial Council staff recommend approving the *Statewide Traffic Tickets/Infraction Amnesty Program Guidelines* developed for use by court and county collection programs statewide in the implementation of the one-time amnesty program, as authorized by Vehicle Code section 42008.8. The amnesty program provides relief to individuals with violations of eligible Vehicle and non-Vehicle Code infractions and specified misdemeanors by reducing outstanding court-ordered debt by 50 or 80 percent (as applicable) and/or reinstating suspended driver's licenses. The 18-month amnesty program will operate from October 1, 2015, through March 31, 2017.

Recommendation

Judicial Council staff recommend that the Judicial Council, effective August 21, 2015:

1. Approve the *Statewide Traffic Tickets/Infraction Amnesty Program Guidelines* (see attached) and direct each superior court to collaborate with its county to implement the mandatory infraction amnesty program and consider extending amnesty to specified Vehicle Code misdemeanors that meet the eligibility requirements, as required by Vehicle Code section 42008.8. The guidelines include a sample Amnesty Program participant form (see attached).
2. Direct each court and county to jointly complete and submit the Amnesty Program Collections Report (see attached), which includes data elements required under Vehicle Code section 42008.8 as well as additional optional data elements designed to improve tracking of various programmatic components.
3. Delegate authority to the Administrative Director to revise the guidelines in response to any legislative or related action affecting amnesty program parameters.

Previous Council Action

There has been no previous Judicial Council action related to this report.

In 2011, the Judicial Council approved guidelines in conjunction with a one-time amnesty program that occurred between January 1 and June 30, 2012. A summary of that program is provided in the following report: www.courts.ca.gov/documents/Statewide-Amnesty-Report-to-Legislature-20121231.pdf.

Rationale for Recommendation

On June 24, 2015, Senate Bill 85 (Stats. 2015, ch 26) added section 42008.8 to the Vehicle Code. The statute authorizes and sets the general guidelines for a one-time mandatory amnesty program, effective October 1, 2015 through March 31, 2017, for eligible unpaid bail or fines for traffic and nontraffic Vehicle Code violations. The statute requires that the Judicial Council adopt guidelines for the amnesty program no later than October 1, 2015, and that the program be implemented in accordance with the adopted guidelines.

The amnesty program is intended to provide relief, through a 50 percent or 80 percent discount, to qualified individuals who have found themselves in default of a court-ordered obligation because they have unpaid bail or fines for traffic and nontraffic violations. The statute also allows, upon court and county agreement, amnesty to be extended to specified Vehicle Code misdemeanors.

Additional relief may be provided to individuals who are in violation of a court-ordered obligation stemming from traffic and nontraffic infractions and eligible misdemeanors by reinstating suspended driver's licenses. The reinstatement of licenses will run concurrent with the discounted court-ordered debt portion of the amnesty program. Individuals affected by a license restriction may be eligible to have their driver's license reinstated in addition to a

reduction in delinquent court-ordered debt, while others—specifically those who are in good standing with a comprehensive collections program—will not qualify for a reduced amount even though they may be entitled to have their driver’s license returned.

In addition, staff is seeking expressed authority for the Administrative Director to make revisions to the guidelines in the event of legislative or other action that may alter program parameters. Given that the council’s next scheduled business meeting is in late October, after the program implementation date of October 1, 2015, this authority could, if needed, reduce complications that might arise if the guidelines cannot be amended prior to that or future meetings.

Comments, Alternatives Considered, and Policy Implications

Time constraints prevented staff from circulating this report for public comment.

The guidelines and associated documents were developed by staff with considerable guidance from the Informal Collections Working Group, which includes court and county representatives with collections expertise as well as representatives from the California State Association of Counties, California Revenue Officers Association, California Victim Compensation and Government Claims Board, and others. The working group and staff met by phone seven times between July 10 and August 10, 2015, to provide input and guidance on the guidelines, sample participation form, and reporting tool. This effort was facilitated by significant support from staff of various Judicial Council offices, including Communications, Criminal Justice Services, Finance, Governmental Affairs, and Legal Services.

In early August, various Judicial Council advisory bodies, as follows, were consulted and feedback was sought regarding the guidelines:

- Traffic Advisory Committee August 4
- Trial Court Presiding Judges Advisory Committee August 6¹
- Court Executives Advisory Committee August 7

Robust discussion took place within each of the committees, but no substantive changes to the guidelines were recommended. Some issues raised during the discussions will be reflected in a Frequently Asked Questions document being developed by staff to assist courts and counties with program implementation. The initial version of that resource is expected to be completed and made available to programs by early September.

Governmental Affairs staff worked closely with representatives from the Administration, Legislature, and other external stakeholders to ensure feedback was sought as part of the guidelines development process.

¹ August 6 represented a joint meeting of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee.

No alternatives were considered due to the detailed nature of the amnesty program parameters specified in Vehicle Code section 42008.8.

Implementation Requirements, Costs, and Operational Impacts

The court or county entity responsible generally for the collection of delinquent court-ordered debt, as required by statute will be responsible for implementation of the amnesty program, unless agreed to otherwise by the court and the county in writing.

Court and county collections programs will be allowed to recover allowable operating costs incurred under the amnesty program. In addition, each collections program lead (court or county) may also charge an amnesty program fee of \$50 per participant, as authorized by Vehicle Code section 42008.8.

In terms of operational impacts, case management system reprogramming activities may affect programs in vastly different ways, depending on technical capabilities, resulting in significant resource impacts. In addition, the more complex program elements required in this version of amnesty as compared to the 2012 program—such as the driver’s license reinstatement element—are expected to increase the volume of program participants and potentially the amount of time spent on each case to determine eligibility.

Individual case management and accounting system limitations may have operational impacts on the collection of revenue under the amnesty program because of the separate accounting and reporting (from both delinquent and nondelinquent collections activity) that is required by statute.

Relevant Strategic Plan Goals and Operational Plan Objectives

The recommendations contained in this report pertain to statutory requirements.

The guidelines support operational plan, objective III.A.4, as it pertains to upholding the integrity of court orders, by improving the collection of fines, fees, penalties, and assessments statewide.

Attachments and Links

1. *Statewide Traffic Tickets/Infraction Amnesty Program Guidelines*
2. Sample Amnesty Program Participant Form
3. Amnesty Program Collections Report

STATEWIDE TRAFFIC TICKETS/INFRACTIONS AMNESTY PROGRAM GUIDELINES

1. Program Authority

On June 24, 2015, Senate Bill 85 (Stats. 2015, ch 26) added section 42008.8 to the Vehicle Code (Attachment A). The statute authorizes and sets the general guidelines for a one-time mandatory amnesty program in each county that reduces bail and fine amounts for Vehicle Code and non-Vehicle Code infractions meeting the eligibility requirements. The statute also allows, upon court and county agreement, a one-time amnesty program for specified Vehicle Code misdemeanors.

The statute requires that the amnesty program be implemented in accordance with guidelines adopted by the Judicial Council. The *Statewide Traffic Tickets/Infraction Amnesty Program Guidelines* (guidelines) may not address every situation involving a collection program's implementation. Courts and counties should consider the intent of the legislation when developing local policies and procedures for their amnesty programs.

2. Program Purpose

The purpose of the one-time amnesty program is to provide relief to qualified individuals who have found themselves in default of a court-ordered obligation because they have unpaid bail or fines for traffic and nontraffic violations. The program also may provide relief to individuals who have had their driving privileges suspended under Vehicle Code section 13365. Encouraging payment of old debt that has remained unpaid will allow court and county collection programs to resolve older delinquent cases and focus limited resources on collecting on more recent cases.

3. Court and County Participation

Unless agreed to otherwise by the court and the county in writing, the entity responsible for the collection of delinquent court-ordered debt under Penal Code section 1463.010(b) will be responsible for implementation of the amnesty program.

The court and county *shall* implement an amnesty program to include infractions and violations under Vehicle Code section 40508(a) or (b) or Penal Code section 853.7. Juvenile traffic infractions are also included in the program.

The court and county *may* jointly agree to extend the one-time amnesty program to bail and fines imposed for a misdemeanor violation of the Vehicle Code. (See section 8, Optional Program Components.)

The amnesty program does not apply to parking violations or violations of Vehicle Code sections 23103, 23104, and 23105 (reckless driving) or Vehicle Code sections 23152 and 23153 (driving under the influence).

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4. Program Costs

Costs of operating the amnesty program, excluding capital expenditures, may be deducted from the revenues collected under the amnesty program by the court or county that incurred the expense, per Penal Code section 1463.007.

Each collections program (court or county) may also charge an amnesty program fee of \$50 per participant. On cases that are paid in one lump sum, the \$50 amnesty program fee may be added to the reduced balance owed. On amnesty payment plans, the first payment will include the agreed-to monthly installment amount and the \$50 program fee. Regardless of the reduction amount, all participants who make a lump sum payment or enter into an installment payment plan may be charged the \$50 amnesty program fee. In addition, participants who are not eligible for the reduction, but are eligible to have their license reinstated, may be charged the \$50 amnesty program fee. For participants with unpaid tickets in multiple counties, the amnesty program fee may be charged by each court or county collections program in which the participant is seeking relief.

The \$50 amnesty program fee is the total fee that may be added to a case to offset any administrative costs. A collections program (including a third-party vendor) may not add additional administrative fees, as authorized by Vehicle Code section 40510.5 or Penal Code section 1205(e), to offset costs of administering an installment payment or accounts receivable plan under the amnesty program.

Any previously imposed administrative fees, such as those authorized under Vehicle Code section 40510.5 or Penal Code section 1205(e) may be reduced and collected under the amnesty program.

The Judicial Council's *Guidelines and Standards for Cost Recovery* can be used as a reference to determine cost allocation and revenue distribution. It is available at <http://www.courts.ca.gov/partners/455.htm>.

5. Amnesty Period

The one-time amnesty program shall operate from October 1, 2015, through March 31, 2017.

6. Eligibility

All adult Vehicle Code and non-Vehicle Code infraction violations and adult Vehicle Code misdemeanor violations with specified exceptions are eligible for the amnesty program. Juvenile Vehicle Code and non-Vehicle Code infraction violations are also eligible. Under Vehicle Code section 42008.8, the terms "bail" and "fine" refer to the total bail amount or fine balance due in connection with a specific Vehicle Code and/or non-Vehicle Code infraction and misdemeanor violation. Local programs should post on their websites a list of the misdemeanor violations that the court and county have jointly agreed to include in the amnesty program, if applicable.

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For amnesty program purposes, any remaining balance of a civil assessment amount imposed under Penal Code section 1214.1 must be deducted from the outstanding bail or fine amount *before* any amnesty reduction calculations and *shall not* be collected.

Each program should determine how to adjust the deducted amount in accounts receivable.

7. Mandatory Program Components

The mandatory amnesty program includes all traffic and nontraffic infraction violations, including those to which a misdemeanor under Vehicle Code section 40508(a) or (b) or Penal Code section 853.7 has been added.

Violations are eligible for the mandatory amnesty program only if the following requirements are met:

- a. The violation is 1) an infraction violation filed with the court, or 2) a violation of Vehicle Code section 40508(a) or (b) or a violation of Penal Code section 853.7 that was added to an infraction violation filed with the court.
- b. The initial due date for payment of the bail or fine was on or before January 1, 2013.
 - 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, 2013.
 - A failure to pay case is eligible for amnesty *if* the fine due date *and* the last payment made on an installment plan or accounts receivable was on or before January 1, 2013.
- c. The defendant does not owe restitution to a victim on **any** case within the county where the violation was issued.
- d. No misdemeanors or felony warrants for the defendant are outstanding within the county where the violation was issued, except for misdemeanor warrants for violations authorized by the court and county for inclusion in the amnesty program.
- e. The person is not currently making payments (on an amnesty-eligible violation) to a comprehensive collection program under Penal Code section 1463.007(c).

Any payment made (on the specific case(s) on which amnesty is requested) after January 1, 2013, either voluntarily or involuntarily, disqualifies the case from eligibility for a reduction of the outstanding amount. However, an individual's driver's license may be reinstated.

The terms "bail" and "fine" as used in Vehicle Code section 42008.8 refer to the total bail amount or fine balance due, including court-ordered fees, forfeitures, surcharges, penalties, and assessments. For the purpose of this amnesty program, civil assessments are not included in the "bail" or "fine" amount.

For amnesty program purposes, any remaining balance of a civil assessment amount imposed pursuant to Penal Code section 1214.1 must be deducted from the outstanding bail or fine amount *before* any amnesty reduction calculations and *shall not* be collected.

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8. Driver's License Reinstatement and Issuance

Concurrent with the amnesty program, and *only* between October 1, 2015, and March 31, 2017, the amnesty program may provide relief to individuals who have found themselves in violation of court-ordered obligation stemming from traffic and nontraffic infractions and eligible misdemeanors that have resulted in driving privilege restrictions. The \$50 amnesty program fee applies for driver's license reinstatement.

If an individual is in good standing in a comprehensive collections program (e.g., current on an installment payment plan) and he or she has appeared in court, has paid the fine in full or has agreed to the terms of the amnesty payment plan, or has otherwise satisfied the court, the court must notify the DMV, as authorized by Vehicle Code section 40509 (a) and (b).

Any payment made (on the specific case(s) on which amnesty is requested), after January 1, 2013, either voluntarily or involuntarily, disqualifies the case from eligibility for a reduction of the outstanding amount. However, an individual's driver's license may be reinstated.

Before notifying the DMV when a person is eligible for amnesty, the court or county is responsible for confirming that an individual meets eligibility requirements a and b, and individuals will be required to certify or sign under penalty of perjury that they meet eligibility requirements c and d of the Mandatory Program Components section above. (Refer to Attachment B, sample Amnesty Program Participation Form)

The courts and the DMV will use existing reporting processes to release a hold on or reinstate a suspended driver's license for amnesty-eligible cases.

The DMV will also charge a \$55 driver's license reinstatement fee as it does for any license reinstatement.

9. Optional Program Components

In addition to and at the same time as the mandatory amnesty program, the court and the county may agree to extend the amnesty program pertaining to fines and bail imposed for specified misdemeanor violations of the Vehicle Code. Parking violations; violations of Vehicle Code sections 23103, 23104, and 23105 (reckless driving); and Vehicle Code sections 23152 and 23153 (driving under the influence) are excluded from the program. (See eligibility requirements in section 7.)

Local programs should post on their websites a list of the misdemeanor violations that the court and county have jointly agreed to include in the amnesty program, if applicable.

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10. Amnesty Payment Plan

In setting up monthly payment plans, the court or county should use the individual's monthly income to calculate a monthly payment amount that the individual can afford to pay, consistent with Government Code sections 68633 and 68634. Programs are encouraged to use existing procedures to determine an individual's ability to pay.

Depending on qualifications, an individual may choose to make installment payments under the amnesty payment plan option.

Individuals applying for an 80 percent reduction must certify under penalty of perjury receipt of specified public benefits or monthly income that is 125 percent or less than the current federal poverty guidelines available at <http://aspe.hhs.gov/poverty/15poverty.cfm#guidelines>. The collecting entity may not require or request proof of income level or receipt of benefit(s) to determine eligibility.

The court or county shall collect all relevant information to allow for the collection of any amount in which a participant is delinquent or otherwise defaults on his or her amnesty payment plan. (See Attachment B, sample Amnesty Program Participation Form.)

11. Default on Amnesty Payment Plan

To participants who default on one or more installment payments, the collections program shall mail a notice advising them that they have failed to make a payment and that they have 30 days to either make a payment or request a change in the payment amount.

If a participant fails to respond to the notice within 30 days, the collections program may refer the case to the Franchise Tax Board Court-Ordered Debt program (FTB-COD) for collection of the remaining balance owed using existing protocols. FTB-COD's standard administrative costs may apply to any amounts collected.

During the amnesty period, the court and county may use other collection efforts authorized by Penal Code section 1463.007, except initiating driver's license suspension or hold actions.

12. Payment Processing

Vehicle Code section 42008.8 requires that each court or county accept in full satisfaction of eligible bail or fine:

- 50 percent of the outstanding fine or bail amount; or
- 20 percent of the outstanding fine or bail amount *if* the participant certifies under penalty of perjury that he or she receives any of the public benefits listed in Government Code section 68632(a), or is within the conditions described in Government Code section 68632(b).

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For amnesty program purposes, any remaining balance of a civil assessment amount imposed under Penal Code section 1214.1 must be deducted from the outstanding bail or fine amount *before* any amnesty reduction calculations and *shall not* be collected.

Courts should ensure that court record(s) reflect the authority under Vehicle Code section 42008.8 to deduct and not collect any remaining balance of a civil assessment amount imposed. Each program should determine how to adjust the deducted amount.

The courts and counties are responsible for determining that the individual meets the eligibility criteria outlined in section 7, Mandatory Program Components. Participation in the amnesty program is granted after confirming that an individual meets eligibility requirements a) and b) and meets the following conditions:

- That they do not owe restitution to a victim on any case within the county where they are seeking amnesty;
- That they do not have outstanding misdemeanor or felony warrants within the county where they are seeking amnesty; and
- That they are not currently making payments to the court or county on the case for which they are seeking amnesty.

For individuals who meet these criteria, the court or county must accept in full satisfaction 50 percent of the eligible fine or bail amount (after deducting any unpaid civil assessment), plus the amnesty program fee.

For individuals who sign under penalty of perjury that they are receiving specified public benefits or that their monthly income is 125 percent or less of the current federal poverty guidelines (<http://aspe.hhs.gov/poverty/15poverty.cfm#guidelines>), the court or county must accept in full satisfaction 20 percent of the eligible fine or bail amount (after deducting any unpaid civil assessment), plus the amnesty program fee.

Please note the following payment considerations:

- a. All forms of payment currently accepted by the collection program are acceptable for the amnesty program.
- b. Payment under the amnesty program may be made in one lump sum or in installment payments (see Amnesty Payment Plan section above).
- c. The total amount of revenue collected under the amnesty program will be deposited in the county treasury and/or the account established under Government Code section 77009.
- d. The program must maintain a separate accounting of all revenues collected and operating costs expended under the amnesty program.
- e. No criminal action shall be brought against a person for delinquent bail amount or fine balance paid under the amnesty program.

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- f. Each program will need to determine how to adjust the deducted civil assessment amount from its accounts receivable.
- g. A collections program (including a third-party vendor) may not add additional administrative fees, as authorized by Vehicle Code section 40510.5 or Penal Code section 1205(s), to offset costs of administering an installment payment or accounts receivable plan under the amnesty program.
- h. Any previously imposed administrative fees, under Vehicle Code section 40510.5 or Penal Code section 1205(e), may be reduced and collected under the amnesty program.
- i. The court and county should not allow an eligible individual to sign up for traffic school in lieu of making the reduced payment amount because the distribution under amnesty is inconsistent with the statutory distribution required under traffic violator school.

13. Accounting

Courts and counties should refer to section 13, Reporting Requirements, for mandatory data reporting elements and consider them when developing accounting procedures for the amnesty program.

For courts, a reporting element will be added to the Phoenix Financial System to track amnesty program-related revenues and expenditures. Contact your Phoenix account lead with any questions.

14. Distribution

Revenue collected under the amnesty program shall be deposited in the county treasury or the account established under Government Code section 77009. After acceptance of the amnesty revenue, notwithstanding Penal Code section 1203.1(d), 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 under Penal Code section 1462.5.

The California State Controller's Office (SCO) shall be responsible for the special distributions outlined in Vehicle Code section 42008.8. Amnesty operating costs, including commission fees, should be prorated among all funds collected under the comprehensive collection program, under Penal Code 1463.007. The SCO's trial court revenue distribution manual (Appendix C) and *Assembly Bill 3000 Court Surcharge Distribution Guidelines* are available at www.courts.ca.gov/revenue-distribution.htm.

The Judicial Council's *Guidelines and Standards for Cost Recovery* can be used as a reference to determine cost allocation and revenue distribution. It is available at the Judicial Council's Revenue and Collections information webpage at <http://www.courts.ca.gov/partners/455.htm>.

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15. Reporting Requirements

Each court or county collection program will jointly submit the Amnesty Program Collections Report (see Attachment C) on or before the dates indicated below. The report *shall* include monthly data on the number of cases resolved, the amount of money collected, and the operating costs attributable to the amnesty program. Additional program detail should be reported to the extent possible.

Quarterly reports are to be submitted electronically to the Judicial Council's Revenue and Collections Unit at collections@jud.ca.gov on or before the following dates:

January 31, 2016

May 31, 2016

September 30, 2016

January 31, 2017

May 31, 2017 (final report)

The Judicial Council is required to submit a report to the Legislature summarizing the information provided by each court or county on or before August 31, 2017.

16. Amnesty Program Action Plan

The Judicial Council is responsible for the following:

- Creating an outreach plan, which includes maintaining and updating an Internet website with relevant amnesty information and links to all court and county websites;
- Developing and distributing the amnesty program guidelines to court and county collecting entities no later than October 1, 2015;
- Compiling amnesty program information for inclusion in the required report to the Legislature; and
- Reimbursing the DMV for costs incurred, up to \$250,000, for (1) creation and production of an insert to be included with each motor vehicle registration renewal notice; (2) staff costs; and (3) posting on the department's website of information regarding the amnesty program.

The DMV is responsible for the following:

- Providing a summary of the amnesty program established under this section that is compliant with Government Code section 7292. That summary will be included on a separate insert with each motor vehicle registration renewal notice.
- Posting on the DMV website information regarding the amnesty program.

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The courts and counties should collaborate with each other on the development of local policies and procedures for the implementation of this amnesty program. To implement the amnesty program successfully, each court and county should develop a joint process for:

- Accepting and posting payments made under the amnesty program;
- Providing an amnesty payment plan option that is consistent with requirements under Government Code section 68632(a) and (b) s;
- Notifying the DMV, as required by law;
- Maintaining separate accounting of all amnesty revenues, including cost recovery collected and operating costs expended under the amnesty program;
- Upon contact by an individual, confirming eligibility on individual cases based on criteria established in Vehicle Code section 42008.8;
- Tracking and reporting the monthly number of cases resolved and revenue collected at the 50 and 80 percent reduction rate, and whether these payments were paid in one lump sum or in installments; and
- Tracking and reporting monthly operating costs and recovered costs.

The court and county should also consider developing a joint procedure for:

- Distributing informational materials to justice partners and third-party collection vendors; and
- Designating staff at each court or county satellite location to process all amnesty payments received by mail or in person.

The State Controller's Office is responsible for the following:

- Handling any special distribution(s) outlined in Vehicle Code section 42008.8; and
- Transferring the first \$250,000 received from amnesty program-related collections revenues to the Judicial Council to reimburse the Department of Motor Vehicles for amnesty-related costs (not to exceed \$250,000).

17. Third-Party Collections

Private Vendor

As outlined in the Statement of Work of the Statewide Master Agreement for Collections Services, vendors are required to provide collection services for “any other legally enforceable debt owed to a Participating Entity [e.g., court or county] or that a Participating Entity has a right to collect”, which includes debt identified by each program as eligible under the amnesty program. A private vendor that currently provides collection services for delinquent court-ordered debt, as permitted by the master agreement, may collect amnesty-eligible debt.

The commission fee listed by each vendor on its pricing proposal for the collection of other legally enforceable debt is an allowable operating cost and applies to this amnesty program.

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Court and county collection programs that do not currently contract with a private vendor for collections services under the master agreement may enter into a contract with a vendor for the collection of amnesty-eligible cases using the participation agreement. Vendor information and a pricing list can be found at www.courts.ca.gov/partners/collections.htm.

As stated in the master agreement, in addition to the reporting requirements of Penal Code section 1463.010, each private vendor must comply with reporting requirements of any other applicable state law and as specified by the Judicial Council, including the reporting requirement referenced in Vehicle Code section 42008.8(I).

Each participating private vendor is responsible for:

- Accepting and posting payments made through the amnesty program;
- Maintaining separate accounting of all amnesty revenues;
- Tracking and reporting the monthly number of cases resolved and revenue collected at the 50 and 80 percent reduction rate, and whether these payments were paid in one lump sum or in installments.

Franchise Tax Board Court-Ordered Debt Program

The court or county may refer amnesty cases that default on their payment plans to the FTB-COD for collection of the remaining delinquent balance, using existing protocols. The FTB-COD may charge an administrative cost, up to 15 percent as prescribed in the Revenue and Taxation Code section 19282, for collecting on any amnesty cases referred by a court or county program.

Revenue and Taxation Code section 19280 requires the aggregate balance owed of at least \$100 for the amounts due referred to FTB for collection and authorizes FTB to “establish criteria for referral that shall include setting forth a minimum dollar amount subject to referral and collection.” The FTB established \$25 as the minimum referral amount; therefore, the case balance must be at least \$25, and the total amount owed by the debtor must total at least \$100.

Intrabranh Program

A court or county that currently contracts with another court (an intrabranh program) for collection services may amend existing agreements to include the collection of amnesty eligible debt.

Overpayments

To reduce the possibility of overpayments involving a third party vendor, it is recommended that local collections programs develop appropriate protocols for the following:

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- Notifying the third-party vendor when an amnesty-eligible case referred to it has been enrolled in the amnesty program.
- Withdrawing from the third-party vendor any amnesty-eligible cases that have been enrolled into the amnesty program.

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Attachment A

Senate Bill No. 85

CHAPTER 26

An act to amend Section 135 of the Code of Civil Procedure, to amend Sections 30029.05, 30061, 70602.6, 70616, 70617, 70657, and 70677 of the Government Code, to amend Sections 1230, 1231, 1232, 1233.1, 1233.3, 1233.5, 1233.6, 1233.61, 1233.9, 1233.10, 1369.1, 1370, 6402, and 13602.1 of, to amend and repeal Section 13602 of, to amend, repeal, and add Sections 13600, 13601, and 13603 of, to add 1370.6 to, to repeal Sections 1233, 1233.15, and 1233.2 of, and to repeal and add Section 1233.4 of, the Penal Code, to add Section 42008.8 to the Vehicle Code, to amend Sections 4117 and 4143 of, and to add Sections 3313, 4023.6, 4023.7, and 4023.8 to, the Welfare and Institutions Code, to amend the Budget Act of 2014 (Chapter 25 of the Statutes of 2014) by amending Item 0250-101-3259 of, and to add Item 5227-491 to, Section 2.00 of that act, relating to public safety, and making an appropriation therefore, to take effect immediately, bill related to the budget.

[Approved by Governor June 24, 2015. Filed with Secretary of State June 24, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

SB 85, Committee on Budget and Fiscal Review. Public safety.

SEC. 42. Section 42008.8 is added to the Vehicle Code, to read:

42008.8. (a) The Legislature finds and declares that a one-time infraction amnesty program would do all of the following:

- (1) Provide relief to individuals who have found themselves in violation of a court-ordered obligation because they have unpaid traffic bail or fines.
- (2) Provide relief to individuals who have found themselves in violation of a court-ordered obligation or who have had their driving privileges suspended pursuant to Section 13365.
- (3) Provide increased revenue at a time when revenue is scarce by encouraging payment of old fines that have remained unpaid.
- (4) Allow courts and counties to resolve older delinquent cases and focus limited resources on collections for more recent cases.

(b) A one-time amnesty program for fines and bail meeting the eligibility requirements set forth in subdivision (e) 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

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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, all of 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 70372, 76000, 76000.5, 76104.6, and 76104.7 of, and paragraph (1) of subdivision (c) of Section 76000.10 of, the Government Code, and Section 42006 of this code.

(3) State surcharges imposed pursuant to Section 1465.7 of the Penal Code.

(4) Court operations assessments imposed pursuant to Section 1465.8 of the Penal Code.

(5) Criminal conviction assessments pursuant to Section 70373 of the Government Code.

(d) Notwithstanding subdivision (c), any civil assessment imposed pursuant to Section 1214.1 of the Penal Code shall not be collected, nor shall the payment of that assessment be a requirement of participation in the amnesty program.

(e) Concurrent with the amnesty program established pursuant to subdivision (b), between October 1, 2015, to March 31, 2017, inclusive, the following shall apply:

(1) The court shall issue and file with the Department of Motor Vehicles the appropriate certificate pursuant to subdivisions (a) and (b) of Section 40509 for any participant of the one-time amnesty program established pursuant to subdivision (b) demonstrating that the participant has appeared in court, paid the fine, or otherwise satisfied the court, if the driving privilege of that participant was suspended pursuant to Section 13365 in connection with a specific violation described in paragraph (1), (2), or (3) of subdivision (g).

(2) The court shall issue and file with the department the appropriate certificate pursuant to subdivisions (a) and (b) of Section 40509 for any person in good standing in a comprehensive collection program pursuant to subdivision (c) of Section 1463.007 of the Penal Code demonstrating that the person has appeared in court, paid the fine, or otherwise satisfied the court, if the driving privilege was suspended pursuant to Section 13365 in connection with a specific violation described in paragraph (1), (2), or (3) of subdivision (g).

(3) Any person who is eligible for a driver’s license pursuant to Section 12801, 12801.5, or 12801.9 shall be eligible for the amnesty program established pursuant to subdivision (b) for any specific violation described in subdivision (g). The department shall issue a driver’s license to any person who is eligible pursuant to Section 12801, 12801.5, or 12801.9 if the person is participating in the amnesty program and is otherwise eligible for the driver’s license but for the fines or bail to be collected through the program.

STATEWIDE TRAFFIC TICKETS/INFRACTIONS AMNESTY PROGRAM GUIDELINES

(4) The Department of Motor Vehicles shall not deny reinstating the driving privilege of any person who participates in the amnesty program established pursuant to subdivision (b) for any fines or bail in connection with the specific violation that is the basis for participation in the amnesty program.

(f) In addition to, and at the same time as, the mandatory one-time amnesty program is established pursuant to subdivision (b), the court and the county may jointly agree to extend that amnesty program to fines and bail imposed for a misdemeanor violation of this code and a violation of Section 853.7 of the Penal Code that was added to the misdemeanor case otherwise subject to the amnesty. The amnesty program authorized pursuant to this subdivision shall not apply to parking violations and violations of Sections 23103, 23104, 23105, 23152, and 23153.

(g) A violation is only eligible for amnesty if paragraph (1), (2), or (3) applies, and the requirements of paragraphs (4) to (7), inclusive, are met:

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

(2) It is a violation of subdivision (a) or (b) of Section 40508, or a violation of Section 853.7 of the Penal Code that was added to the case subject to paragraph (1).

(3) The violation is a misdemeanor violation filed with the court to which subdivision (f) applies.

(4) The initial due date for payment of the fine or bail was on or before January 1, 2013.

(5) There are no outstanding misdemeanor or felony warrants for the defendant within the county, except for misdemeanor warrants for misdemeanor violations subject to this section.

(6) The person does not owe victim restitution on any case within the county.

(7) The person is not currently making payments to a comprehensive collection program pursuant to subdivision (c) of Section 1463.007 of the Penal Code.

(h) (1) Except as provided in paragraph (2), 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).

(2) If the participant certifies under penalty of perjury that he or she receives any of the public benefits listed in subdivision (a) of Section 68632 of the Government Code or is within the conditions described in subdivision (b) of Section 68632 of the Government Code, the amnesty program shall accept, in full satisfaction of any eligible fine or bail, 20 percent of the fine or bail amount, as defined in subdivision (c).

(i) The Judicial Council, in consultation with the California State Association of Counties, shall adopt guidelines for the amnesty program no later than October 1, 2015, and each program shall be conducted in accordance with the Judicial Council's guidelines. As part of its guidelines, the Judicial Council shall include all of the following:

STATEWIDE TRAFFIC TICKETS/INFRACTIONS AMNESTY PROGRAM GUIDELINES

(1) Each court or county responsible for implementation of the amnesty program pursuant to subdivision (b) shall recover costs pursuant to subdivision (a) of Section 1463.007 of the Penal Code and may charge an amnesty program fee of fifty dollars (\$50) that may be collected with the receipt of the first payment of a participant.

(2) A payment plan option created pursuant to Judicial Council guidelines in which a monthly payment is equal to the amount that an eligible participant can afford to pay per month consistent with Sections 68633 and 68634 of the Government Code. If a participant chooses the payment plan option, the county or court shall collect all relevant information to allow for collection by the Franchise Tax Board pursuant to existing protocols prescribed by the Franchise Tax Board to collect delinquent debts of any amount in which a participant is delinquent or otherwise in default under his or her amnesty payment plan.

(3) If a participant does not comply with the terms of his or her payment plan under the amnesty program, including failing to make one or more payments, the appropriate agency shall send a notice to the participant that he or she has failed to make one or more payments and that the participant has 30 days to either resume making payments or to request that the agency change the payment amount. If the participant fails to respond to the notice within 30 days, the appropriate agency may refer the participant to the Franchise Tax Board for collection of any remaining balance owed, including an amount equal to the reasonable administrative costs incurred by the Franchise Tax Board to collect the delinquent amount owed. The Franchise Tax Board shall collect any delinquent amounts owed pursuant to existing protocols prescribed by the Franchise Tax Board. The comprehensive collection program may also utilize additional collection efforts pursuant to Section 1463.007 of the Penal Code, except for subparagraph (C) of paragraph (4) of subdivision (c) of that section.

(4) A plan for outreach that will, at a minimum, make available via an Internet Web site relevant information regarding the amnesty program, including how an individual may participate in the amnesty program.

(5) The Judicial Council shall reimburse costs incurred by the Department of Motor Vehicles up to an amount not to exceed two hundred fifty thousand dollars (\$250,000), including all of the following:

(A) Providing on a separate insert with each motor vehicle registration renewal notice a summary of the amnesty program established pursuant to this section that is compliant with Section 7292 of the Government Code.

(B) Posting on the department's Internet Web site information regarding the amnesty program.

(C) Personnel costs associated with the amnesty program.

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

STATEWIDE TRAFFIC TICKETS/INFRACTIONS AMNESTY PROGRAM GUIDELINES

(k) (1) 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. After acceptance of the amount specified in subdivision (h), 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.

(2) Notwithstanding Section 1464 of the Penal Code, the amount of funds collected pursuant to this section that would be available for distribution pursuant to subdivision (f) of Section 1464 of the Penal Code shall instead be distributed as follows:

(A) The first two hundred fifty thousand dollars (\$250,000) received shall be transferred to the Judicial Council.

(B) Following the transfer of the funds described in subparagraph (A), once a month, both of the following transfers shall occur:

(i) An amount equal to 82.20 percent of the amount of funds collected pursuant to this section during the preceding month shall be transferred into the Peace Officers' Training Fund.

(ii) An amount equal to 17.80 percent of the amount of funds collected pursuant to this section during the preceding month shall be transferred into the Corrections Training Fund.

(l) Each court or county implementing an amnesty program shall file, not later than May 31, 2017, 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 August 31, 2017, the Judicial Council shall submit a report to the Legislature summarizing the information provided by each court or county.

Statewide Traffic Tickets/Infractions Amnesty Program
October 1, 2015. to March 31, 2017
Sample Participation Form

Attachment B

Date: _____ Driver's License Number: _____
Name: _____ E-mail: _____
Current Address: _____
Contact Number(s): Home: _____ Mobile: _____ Work: _____

I am seeking reduction in eligible unpaid bail/fines/fees *and/or* driver's license reinstatement

I declare all of the following are true:

- I do not owe restitution to a victim within the county where the violation occurred.
- I do not have any outstanding misdemeanor or felony warrants within the county the violation occurred.
- I am not currently making payments to the court or county for the eligible violation (applies to amnesty reduction option only).

I understand each of the following:

- I must pay the reduced balance owed in full at this time or comply with terms of the court-approved payment plan.
- I understand that I am responsible for an amnesty program fee of \$50 to be paid with my first payment.
- I understand that if I default or stop making payments on my amnesty case, the remaining balance may be referred to the Franchise Tax Board or a third party for further collections.

Complete either Section A or B as directed:

A. I receive the following public assistance (*include all that apply*):

- Supplemental Security Income/SSI
- State Supplementary Payment/SSP
- Medi-Cal
- In-Home Supportive Services (IHSS)
- CalFresh (Supplemental Nutrition Assistance Program)
- County relief, general relief, or general assistance
- CalWORKs
- Cash Assistance Program for Immigrants (CAPI)
- Tribal Temporary Assistance for Needy Families (TANF)

B. I certify the following:

My total gross monthly household income is \$ _____, and a total of _____ dependents live in the household.

I declare under penalty of perjury under the laws of the State of California that the foregoing statements are true and correct to the best of my knowledge and belief. I understand that if I do not provide correct information to determine the level of debt reduction, I may be responsible for an adjusted amount.

Signature _____

Date _____

COLLECTION PROGRAM USE ONLY

Citation due date: _____
Citation number: _____

Total outstanding balance: _____
Amnesty payment due: _____

The County of _____ OR the Superior Court of _____ County has verified case eligibility for the amnesty program and has determined the following:

50% reduction _____ 80% reduction _____ Full Payment _____ Payment Plan _____ Driver's License Reinstatement _____

Certified by: _____

Statewide Traffic Tickets/Infractions Amnesty Program Report October 1, 2015, to March 31, 2017

Mandatory (Infraction) Amnesty Program				
	Number of Accounts Resolved	Revenue Collected	Program Operating Cost	Recovered Cost
October 2015				
November 2015				
December 2015				
January 2016				
February 2016				
March 2016				
April 2016				
May 2016				
June 2016				
July 2016				
August 2016				
September 2016				
October 2016				
November 2016				
December 2016				
January 2017				
February 2017				
March 2017				
TOTAL	0	\$0.00	\$0.00	\$0.00

Optional (Misdemeanor) Amnesty Program				
	Number of Accounts Resolved	Revenue Collected	Program Operating Cost	Recovered Cost
October 2015				
November 2015				
December 2015				
January 2016				
February 2016				
March 2016				
April 2016				
May 2016				
June 2016				
July 2016				
August 2016				
September 2016				
October 2016				
November 2016				
December 2016				
January 2017				
February 2017				
March 2017				
TOTAL	0	\$0.00	\$0.00	\$0.00

Court/County:

Completed by:

Title:

Phone No.:

Email:

**Statewide Traffic Tickets/Infractions Amnesty Program Report
October 1, 2015, to March 31, 2017**

Additional Program Detail																			
Mandatory Amnesty Program	No. Accounts Eligible	Total Value: Eligible Accounts	Total Collected: One Pymt. 50%	No. Accounts: 50% Payment Plan	Total Collected: Payment Plan 50%	Ending Balance: 50% Payment Plans	Total Collected: One Pymt. 20%	No. Accounts: 20% Payment Plan	Total Collected: Payment Plan 20%	Ending Balance: 20% Payment Plans	No. Cases w/Civil Asst.	Total Waived: Civil Asst.	Average Age of Resolved Debt	No. Licenses Reinstated (DL Only Abstract) ¹	No. Licenses Reinstated (PIF Abstract) ²	No. Payment Plan Defaults ³	Value of Cases: "Court Satisfied" ⁴	No. Cases Deemed Ineligible After Program Review ⁵	
October 2015																			
November 2015																			
December 2015																			
January 2016																			
February 2016																			
March 2016																			
April 2016																			
May 2016																			
June 2016																			
July 2016																			
August 2016																			
September 2016																			
October 2016																			
November 2016																			
December 2016																			
January 2017																			
February 2017																			
March 2017																			
TOTAL	0	\$0.00	\$0.00	0	\$0.00	\$0.00	\$0.00	0	\$0.00	\$0.00	0	\$0.00	0	0	0	0	\$0.00	0	

Additional Program Detail																			
Optional Amnesty Program	No. Accounts Eligible	Total Value: Eligible Accounts	Total Collected: One Pymt 50%	No. Accounts: 50% Payment Plan	Total Collected: Payment Plan 50%	Ending Balance: 50% Payment Plans	Total Collected: One Pymt 20%	No. Accounts: 20% Payment Plan	Total Collected: Payment Plan 20%	Ending Balance: 20% Payment Plans	No. Cases w/Civil Asst.	Total Waived: Civil Asst.	Average Age of Resolved Debt	No. Licenses Reinstated (DL Only Abstract) ¹	No. Licenses Reinstated (PIF Abstract) ²	No. Payment Plan Defaults ³	Value of Cases: "Court Satisfied" ⁴	No. Cases Deemed Ineligible After Program Review ⁵	
October 2015																			
November 2015																			
December 2015																			
January 2016																			
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March 2016																			
April 2016																			
May 2016																			
June 2016																			
July 2016																			
August 2016																			
September 2016																			
October 2016																			
November 2016																			
December 2016																			
January 2017																			
February 2017																			
March 2017																			
TOTAL	0	\$0.00	\$0.00	0	\$0.00	\$0.00	\$0.00	0	\$0.00	\$0.00	0	\$0.00	0	0	0	0	\$0.00	0	

¹ Number of case where *only* driver's license was reinstated (the individual did not qualify for the reduced amount under amnesty).
² Number of cases where the driver's license was reinstated and the individual paid the reduced balance amount under amnesty (either in one lump sum or installments).
³ Number of cases that were entered into an amnesty installment payment plan and the individual defaulted.
⁴ Value of cases in which "the court is satisfied" via alternate sentencing; e.g., cases in which community service or other is permitted and the value reduced or waived.
⁵ Number of cases deemed ineligible based on the program's review of the individual's qualifications (e.g., eligibility criteria unmet).

Court/County:
 Completed by:
 Title:
 Phone No.:
 Email: