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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

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**Bill No:** AB 2532                      **Hearing Date:** June 12, 2018  
**Author:** Jones-Sawyer  
**Version:** February 14, 2018  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** MK

**Subject:** *Infractions: Community Service*

## HISTORY

**Source:** Judicial Council

**Prior Legislation:** AB 2197 (Washington) Chapter 1061, Stats. 1998

**Support:** California Public Defenders Association; Disability Rights California (if amended) Ella Baker Center for Human Rights; National Association of Social Workers, California Chapter (NASW-CA)

**Opposition:** California Police Chiefs Association

**Assembly Floor Vote:** 74 - 0

## PURPOSE

*The purpose of this bill is to require a court to permit a person convicted of an infraction to perform community service in lieu of paying a fine upon demonstrated financial hardship, and sets an hourly rate for community service.*

*Existing law* specifies that an infraction is not punishable by imprisonment. A person charged with an infraction is not entitled to a trial by jury and is not entitled to a public defender or other counsel paid for at public expense unless he or she was arrested and not released on written promise to appear, own recognizance, or deposit of bail. (Penal Code § 19.6.)

*Existing law* mandates that, except as otherwise provided by law, all laws relating to misdemeanors apply to infractions including, but not limited to, peace officer powers, court jurisdiction, periods for commencing action and for bringing a case to trial, and burden of proof. (Penal Code § 19.7.)

*Existing law* states that a violation of any code section listed, as specified, is an infraction, when:

- a) The prosecutor files the offense as an infraction unless the defendant elects, after having been arraigned and informed of rights, to have the case proceed as a misdemeanor; or
- b) The defendant allows the court to determine that the offense is an infraction. (Penal Code, § 17 (d).)

*Existing law* states that, except in cases where a different punishment is prescribed, a fine for an infraction shall not exceed two hundred fifty dollars. (Penal Code § 19.8.)

*Existing law* states that a person convicted of an infraction may, upon demonstrating that paying a fine would result in financial hardship, be sentenced to perform community service instead of paying the total fine which would otherwise be imposed. (Penal Code § 1209.5.)

*Existing law* sets the hourly rate applicable to community service work performed by dividing the total fine by the number of hours of community service ordered by the court. (Penal Code, § 1209.5.)

*Existing law* requires the minimum wage for any employer who employs 25 or fewer employees to be:

- a) \$10.50 per hour from January 1, 2018, to December 31, 2018;
- b) \$11 per hour from January 1, 2019, to December 31, 2019;
- c) \$12 per hour from January 1, 2020, to December 31, 2020;
- d) \$13 per hour from January 1, 2021, to December 31, 2021;
- e) \$14 per hour from January 1, 2022, to December 31, 2022; and,
- f) \$15 per hour from January 1, 2023 until adjusted as specified. (Labor Code § 1182.12 (b)(2).)

*This bill* requires the court to permit a person convicted of an infraction to perform community service in lieu of paying a fine upon the defendant demonstrating financial hardship.

*This bill* clarifies the definition of “total fine.”

*This bill* sets the hourly applicable rate for community service at double the minimum wage set for the applicable calendar year, as specified.

*This bill* allows courts to adopt a local rule increasing the hourly rate set above.

## COMMENTS

### 1. Need for This Bill

According to the author:

When a trial court convicts an individual of an infraction they begin with a base fine and then add state mandated penalties and assessments, leading to higher total fine amounts. For example, the base fine for a red light violation is \$100, but after mandatory penalties and assessments, the total amount due is \$490.

Current law (Section 1209.5 of the California Penal Code) gives courts the discretion to sentence an individual to community service if the court determines that the total fine amount would cause a financial hardship. While allowing

individuals to pay infraction fines through community service hours can help reduce the financial burden, there is not a consistent rate for converting community service hours in California. This results in an unequal system where an hour of community service can be valued at \$10 in one court, and only \$6.50 in another.

A Legislative Analyst Office (LAO) report, [Improving California's Criminal Fine and Fee System](#), found that California's fine and fee system results in some of the highest amounts of court ordered debt in the country. The LAO report raised concerns about proportional punishment noting that "the determination of whether the fines and fees for a particular offense are proportional and reasonable is subjective; it can be guided by information on how the requirement to pay affects offenders". Additionally, the Futures Commission of the Judicial Council of California issued a [report in April 2017](#) noted, in recommendation number 2.4, that California lacks a uniform hourly rate for converting infraction fines into community service hours.

AB 2532 would, at the recommendation of the Judicial Council of California, result in a uniform rate for converting infraction fines into community service hours. Specifically, this bill would make an hour of community service equal to no less than double the minimum wage rate for businesses with fewer than 25 employees. The minimum wage rate for businesses with less than 25 employees will be \$11 starting in 2019, and is scheduled to increase by \$1 through 2023, to \$15. Additionally, this bill would allow courts to increase the conversion rate at their discretion.

AB 2532 would ensure that the community service of individuals who cannot afford to pay their infraction violation fines is converted into work hours at a fair and equitable rate. Creating a conversion rate of no less than double the minimum wage allows individuals to pay off their fines in a more reasonable timeframe, which, in turn, allows them more time to focus on existing responsibilities including increased time with their families.

## **2. Community Service in Lieu of Fine**

Under existing law the court may permit a person to perform community service instead of paying a fine for an infraction when he or she shows that paying the fine would cause a hardship.

This bill would require the court to allow community service when the hardship is shown. This bill further defines the applicable hourly rate for community service as double the minimum wage set for that calendar year unless a court by local rule increases that amount.

Judicial Council, the sponsor of this bill notes:

Currently, each court determines its own hourly rate for defendants who perform community service, resulting in different rates throughout the state. This bill is needed to provide a uniform and equitable statewide minimum hourly rate for community service in lieu of payment of infraction fines. By doing so it would promote access to justice.