
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair

2017 - 2018 Regular

Bill No: SB 1105 **Hearing Date:** April 10, 2018
Author: Skinner
Version: April 3, 2018
Urgency: No **Fiscal:** Yes
Consultant: SC

Subject: *Vehicles: Driving Offenses: Prosecution*

HISTORY

Source: East Bay Community Law Center
Legal Services for Prisoners with Children
San Francisco Public Defender's Office

Prior Legislation: AB 1156 (Brown), Ch. 378, Stats. 2015
AB 877 (Skinner), 2011, held Senate Appropriations Comm.
AB 3569 (Becerra), Ch. 950, Stats. 1992

Support: American Civil Liberties Union (ACLU) of California; Asian American Criminal Trial Lawyers Association; Bay Area Legal Aid; California Public Defenders Association; California Reinvestment Coalition; Courage Campaign; Ella Baker Center for Human Rights; Legal Services of Northern California; PolicyLink; Recovery Survival Network; Riverside Temple Beth El; Root & Rebound; Rosen Bien Galvan & Grunfeld, LLP; Rubicon Programs; San Francisco Office of the District Attorney; San Francisco Sheriff's Office; UC Irvine School of Law; Western Center on Law and Poverty

Opposition: California District Attorneys Association; California Police Chiefs Association

PURPOSE

The purpose of this bill is to extend existing laws relating to the dismissal of Vehicle Code violations pending at the time of a defendant's commitment to state prison or county jail on a jail-eligible felony to provide the same relief to persons sentenced to county jail or other alternatives to incarceration, as specified.

Existing law states that a person shall not be subject to prosecution for a nonfelony offense arising out of a violation of the vehicle code pending against him or her, except pending violations of reckless driving or driving under the influence, at the time of his or her commitment to a state prison, Division of Juvenile Justice (DJJ), or county jail on a jail-eligible felony. (Veh. Code, § 41500, subd. (a) & (f).)

This bill extends the above immunity to persons who have completed a sentence of seven days or longer in a county jail, work alternative program, or any alternative to incarceration as a condition of probation and makes conforming changes to Vehicle Code section 41500.

Existing law states that the immunity from prosecution does not apply to offenses where the DMV is required to immediately revoke or suspend the privilege of a person to drive a motor vehicle upon receipt of a duly certified of the record of a court showing that the person has been convicted of that nonfelony offense. (Veh. Code, § 41500, subd. (d).)

Existing law states that, notwithstanding any other law, a driver's license shall not be suspended or revoked, and the issuance or renewal of a license shall not be refused as a result of a pending nonfelony offense occurring prior to the time a person was committed to a state prison, DJJ, or county jail on a jail-eligible felony, or as the result of a notice of a failure to appear in court received by the Department of Motor Vehicles (DMV) of a violation that occurred prior to the person's commitment. (Veh. Code, § 41500, subd. (b).)

Existing law requires DMV to remove from its records notice received by it for a failure to appear in court upon satisfactory evidence that a person was committed to a state prison, DJJ, or county jail on a jail-eligible felony after the offense that gave rise to the notice occurred. (Veh. Code, § 41500, subd. (c).)

Existing law states that a qualifying person may request relief directly through DMV and the courts. (Veh. Code, § 41500, subd. (d).)

Existing law states that immunity from prosecution does not apply to an offense committed by a person while he or she is temporarily released from custody or while he or she is on parole or postrelease community supervision (PRCS). (Veh. Code, § 41500, subd. (e).)

This bill deletes subdivision (e) of Vehicle Code section 41500.

This bill creates a new section that provides that a person shall not be subject to prosecution for any outstanding infraction or failure to appear, or be liable for any unpaid fine or assessment, arising out of a violation of the Vehicle Code if the person is incarcerated for a cumulative of 30 days or more in county jail in any consecutive 12-month period subsequent to the date of the violation.

This bill provides that, notwithstanding any other law, a driver's license shall not be suspended or revoked, nor shall the issuance or renewal of a license be refused as a result of a pending infraction, as specified, for persons who have been incarcerated for a cumulative of 30 days or more in county jail in any consecutive 12-month period subsequent to the date of the violation.

This bill requires the DMV to remove from its records notices received by it for failures to appear upon receipt of satisfactory evidence that the person has been incarcerated for a cumulative of 30 days or more in county jail in any consecutive 12-month period subsequent to the date of the violation.

This bill authorizes a qualifying incarcerated, or previously incarcerated, or previously convicted person to request relief under the new section directly through DMV or the courts.

This bill requires a court that receives a valid request to search its computer system for eligible pending matters and dispose of those matters appropriately, and within 15 days of receipt of the request, notify DMV of the request, and that DMV shall remove the applicable records.

This bill states that relief under the new section includes dismissal of any outstanding civil assessments levied for failure to appear or failure to pay all or any portion of fines ordered by a court.

This bill specifies that relief under the provisions of this bill shall remain available at any time that any fine or assessment, as described, remains unpaid or as long as the driver's license of any eligible person remains suspended or revoked as a result of notice to DMV for a failure to appear in court.

COMMENTS

1. Need for this Bill

According to the author of this bill:

For those who are returning home after having served time not being able to obtain a driver's license or having excessive debt can be the difference between successful and unsuccessful reentry.

California has some of the highest traffic fines in the nation. Many people leaving jail do not have the resources to pay hundreds or thousands of dollars in traffic debt, on top of thousands of dollars in debt from their incarceration-triggering convictions.

Furthermore, suspending a person's driver's license often leads to a loss of that individual's job or to serious difficulties in finding a new one. People coming home from jail or sentenced to a work alternative program already have significant difficulty finding employment because of their conviction histories without this added barrier.

Research shows that even 1 or 2 days of jail time are enough for a person to lose their job, their car, or their home. Spending time in jail can result in the financial destabilization of an entire family.

Under current law, people incarcerated in state prison may use Vehicle Code section 41500 to have their pending traffic non-felonies dismissed and avoid suspension of their driver's license, thus improving their chances at successful reentry. Unfortunately, this forgiveness does not extend to people who have served time in county jails.

While AB 1156 (Brown) extended relief to a small portion of people in county jails (under the 2011 Public Safety Realignment Act), thousands of former county jail inmates are still burdened by fines they cannot afford or risk losing their license for missing court dates.

SB 1105 simply extends relief that applies to people serving time in state prisons to also cover people in county jails. This bill helps break the cycle of poverty and incarceration

for people coming home from California jails or sentenced to work alternative programs and eases the syphoning of resources from some of our state's most vulnerable families.

2. Financial Impact of Convictions and Incarceration

Vehicle Code section 41500 precludes prosecution for nonfelony offenses when a person is committed to a state prison, DJJ, or county jail on a jail-eligible felony. The statute also prohibits a person's driver's license from being suspended, revoked or denied for a failure to appear related to those nonfelony offenses. The purpose of Vehicle Code section 41500 is to ease the burden on defendants who after being incarcerated face obstacles in rehabilitation and reintegrating back into society upon release. (*People v. Lopez* (2013) 160 Cal.Rptr.3d 678.) The statute originally enacted in 1970 only applied to persons who are committed to state prison. However, the statute has been expanded to apply to persons who are committed to DJJ (Ch. 545, Stats. 1975) and then too persons who are committed to county jail on a jail-eligible felony (AB 1156 (Brown), Ch. 378, Stats. 2015).

This bill further expands the statute to apply to persons sentenced to seven days or longer in a county jail, work alternative program, or any alternative to incarceration as a condition of probation. This bill also creates a new statute that provides a similar preclusion to prosecution for any outstanding infraction or failure to appear, and sates that the person shall not be liable for any unpaid fine or assessment, arising out of a violation of the Vehicle Code once the person has been incarcerated for a cumulative 30 days or more in county jail in any consecutive 12-month period subsequent to the date of the violation.

Not surprisingly, lengthy periods of incarceration will lead to job loss and extreme difficulties finding employment once released due to the fact that people who have been incarcerated have a more tenuous connection to employment and they have a criminal record which employers generally avoid. (Congressional Budget Office, *Factors Affecting the Labor Force Participation of People Ages 25 to 54* (Feb. 2018).) However, it has been found that even a short stay in stay in jail can cause a person to lose their job, car, or home. (Decker et al., *Criminal Stigma, Race, Gender and Employment: An Expanded Assessment of the Consequences of Imprisonment for Employment* (Jan. 2014).)

Convictions, even without incarceration, result in fines and fees that many offenders cannot afford to pay, which is further compounded by the person's inability to hold or find employment. As described below, criminal debt has negative impacts on a person's reentry.

Former offenders with debt encounter a number of problems that interfere with successful reintegration. Debt reduces household income and limits their ability to attain housing, employment, and access to credit. It also hobbles existing credit, which makes it even more difficult to get a job, to receive approval to rent an apartment, and to apply for loans. Criminal debt also impedes an ex-offender's prospects of attaining public health benefits, can result in a driver's license suspension, and negates their ability to apply for a pardon or criminal record expungement in some states (Vallas and Patel 2012). It also increases the likelihood of continued involvement with the criminal justice system through extended probation or parole, re-arrest, or re-incarceration (Harris, Evans and Beckett 2010). Some states disenfranchise ex-offenders until they have paid off their debt entirely. For example, ex-offenders in Florida are required to fulfill their restitution obligations before they can restore their right to vote, serve jury duty, and obtain certain occupational licenses (Diller 2010). An important consequence of financial burdens is

that they increase the likelihood of recidivism, particularly when offenders are unable to pay (Dickman 2009).

(Evans, *The Debt Penalty: Exposing the Financial Barriers to Offender Reintegration*, John Jay College of Criminal Justice (Aug. 2014), p. 9.)

3. Argument in Support

Western Center on Law and Poverty writes in support of this bill:

SB 1105 addresses a problem that many of our legal service programs have noted over the years. That persons leaving the criminal justice system often have outstanding tickets, owe large amounts of court ordered debt from fines, fees and assessment that have been imposed and have had their license suspended for failure to appear even though they were incarcerated at the time. Without a license it is difficult to rent a home, get a job or obtain needed public benefits.

Under current law, people incarcerated for felonies in prison or jail may use Vehicle Code section 41500 to have their pending traffic infractions dismissed and avoid suspension of their driver's license. Yet even though people who are incarcerated for misdemeanors, jailed pre-trial, or sentenced to jail alternative programs often suffer similar financial destabilization, this large population of low-income people cannot currently access relief under section 41500. SB 1105 would fix this injustice.

4. Argument in Opposition

The California District Attorneys Association opposes this bill and argues:

The original idea behind VC 41500 was to give persons sentenced to prison the opportunity to come out of custody without having to be concerned about trying to clean up pending traffic tickets they received prior to going in, as well as [failures to appear] FTAs that arose either before or during their time in prison. This makes sense for many reasons, not the least of which is removing potential impediments to parole compliance and the ability to obtain employment.

SB 1105, however, goes too far – especially proposed VC 41500.5. Rather than adhering to the original purpose of VC 41500, which was to give parolees a clean slate and a chance at success, this bill would reward irresponsible traffic offenders (including misdemeanants) who rack up multiple tickets and/or don't show up for court.

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